

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JANUARY 20, 2016

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on January 20, 2016. Chairman Benedetto called the meeting to order at 7:30 p.m. and called the Roll.

Those present:

Board of Supervisors:        Jeff Benedetto, Chairman  
   John B. Lewis, Vice Chairman  
   Kristin Tyler, Secretary  
   Judi Reiss, Treasurer  
   David Fritchey, Supervisor

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

PROCLAMATION FOR DAVID E. FRITCHEY FOR TWENTY-TWO YEARS OF SERVICE ON THE PARK AND RECREATION BOARD

Mr. Benedetto stated tonight they have the opportunity to recognize someone who has devoted a significant amount of time to the Township. He read into the Record the Proclamation honoring David E. Fritchey for twenty-two years of service on the Park & Recreation Board.

Mr. Fritchey stated it was a privilege to have a rewarding civic career working in the Township including working for twenty-two years on the Park & Recreation Board. He stated he had the good fortune of being associated with huge numbers of people who were able to accomplish great things a number of whom were present this evening including John Kuebler, Donna Liney, David Malinowski, Wes Hackman, Bryan McNamara, Sean O'Hara, and Doug Krauss. Mr. Fritchey stated he accepts the Proclamation with a great deal of humility adding that nothing he has done could have been done without the help of many people. He stated while he is leaving the Park & Recreation Board, he is confident that it is in good hands and will move forward and further build the Park system and continue to become the community they all aspire it to be and to plan and build for the future to make the Township an even better place than is it now that our children can inherit.

PUBLIC COMMENT

Mr. Ken Seda, 912 Weber Drive, stated he feels the Board has neglected open space over time; and he wants to make sure that this Board puts together a comprehensive plan. He stated he would like to see this plan publically posted including purchase dates, amount of property purchased, and timelines.

Mr. Benedetto stated there is \$450,000 available in Municipal Open Space money, and the EAC has identified properties; and the Township has also been made aware of some recent opportunities. He stated the Board is committed to this; and he feels by the end of this year, they will have purchased some open space. Mr. Lewis stated the EAC has a list of properties in sequence including the pros and cons of each property, estimates of market value, and where the owner is on selling the property. He stated if they were to indicate a specific property they were interested in, it could inflate the value of that property. He stated he feels they could come together with a Plan that would not be property specific but possibly general-location specific that would address Mr. Seda's concerns. Mr. Seda stated he would be happy to see something that indicated quarterly how they plan to accomplish open space purchases.

Mr. Seda stated he still does not feel there was an adequate response in terms of accountability with regard to the YMCA paving issue. He stated he feels the value that was placed on the work done was rather low for the Township resources that were expended in another Township. He asked if they have looked into this any further. Mr. Fedorchak stated at this point, he feels they need to have a change in their policy and a much stronger worded policy regarding personal use of Township equipment and with respect to going outside the Township and engaging in work. He stated he is close to finishing that, and he will present it to the Board of Supervisors. He stated he feels it is important for the taxpayers to know that everything is being done to make sure that does not happen again. Mr. Fedorchak stated he feels this could be on the Agenda in February.

Mr. Jeff Hirko, Dolington Road, stated on the Lower Makefield Facebook page a lot of people indicated their concern with where to get rid of old medications and needles since they tried at the Police Department and they were turned away. Chief Coluzzi stated they have a box in the lobby of the Police Department that takes medications, but they cannot take sharps, etc. He stated those can be taken to the hospitals for disposal. He stated the Police Department will take any other drugs people wish to dispose of.

Mr. Hirko stated he would like to re-visit a link on the Township Website for PattersonFarm.com. Mr. Benedetto stated he is in favor of this, although he understands Ms. Tyler has expressed concern around this.

Mr. Lewis moved, and Ms. Reiss seconded to revise the <http://www.lmt.org/links> to include a link to [www.pattersonfarmpreservation.com](http://www.pattersonfarmpreservation.com) and that they place a disclosure at the bottom of the page regarding Weblinks as follows:

“Lower Makefield Township may provide access to information, products, or services offered on Websites that are owned or operated by other entities (“third party Websites.”) We provide this access through the use of hyperlinks that automatically move you from a Lower Makefield Township Website to a third party site.

While we do our best to provide you with helpful, trustworthy resources, Lower Makefield Township cannot endorse, approve, or guarantee information, products, services, or recommendations provided at a third party site.”

Mr. Lewis stated there are other links on the Township page as well and he has reviewed the Patterson Farm site which he does not feel has anything “troubling,” and he feels it is best to have a Web linking policy.

Ms. Tyler asked if this disclosure is the language from Counsel. Mr. Lewis stated it is not, but it is language that is used on a number of Websites and has passed muster with Counsels of very large financial services companies. Ms. Tyler stated she felt Mr. Garton had drafted language for this, and she feels the language used should be reviewed by legal. Mr. Benedetto stated while he understands Ms. Tyler’s point, he feels it has been adequately addressed by the Disclaimer Mr. Lewis included in his Motion.

Ms. Tyler asked if everyone has read the Patterson Farm Website, and Mr. Benedetto stated he is very comfortable having them as a link. Ms. Reiss stated there are other links from other organizations that are on there, and she feels it would be “foolish” not to have this as there are people looking for it in the Township. Ms. Tyler stated she was concerned with the change.org Petition which is putting a lobby link on the Website. Mr. Lewis stated while this is a fair observation, they do have links to elected public servants and parts of their Webpages include lobbying on issues they care about. He stated any of the links they have could change their content at any time, and having this Disclosure provides protection.

Ms. Tyler stated Patterson Farm is a Lower Makefield Township asset and if the Board is inclined to make sure the public has information about it, that information should come from the Township as the owner of the parcel.

Motion carried with Mr. Benedetto, Mr. Lewis, and Ms. Reiss in favor and Mr. Fritchey and Ms. Tyler opposed.

Ms. Lisa Baxter, 208 Arborlea Avenue, stated ElCon has a public meeting as required by the PaDEP scheduled for February 23. She stated her organization will be having an informational meeting on January 26. She asked that the Board put this issue on their Agenda. She also asked if the Township sent the letter they discussed in December to the PaDEP, Falls Township, and the DRBC about ElCon. Mr. Fedorchak stated they did send the letter. Mr. Benedetto stated he would like to have this issue put on the Board's Agenda on February 3. Mr. Lewis stated the EAC is looking into this as well, and he asked if the Board would want them to discuss it first before putting in on the Board of Supervisors' Agenda.

Mr. Benedetto asked Ms. Baxter if she has had the opportunity to speak to anyone on the Falls Township Board of Supervisors; and Ms. Baxter stated while she has not personally, people from their group have. Mr. Benedetto stated Lower Makefield needs to know if they have standing, and if they really have anything they can do specifically other than voice their objection and provide moral support to Ms. Baxter's organization. Ms. Baxter stated what they feel the Board of Supervisors can do is what they have done already which was voice their opinion to the PaDEP and Falls Township as this is going to effect neighboring Townships other than just Falls Township. Ms. Baxter stated some of the trucks are going to go through Lower Makefield neighborhoods.

Mr. Benedetto stated Mr. Bob Harvie, Falls Township Supervisor, has come to the Township in the past about developments in Lower Makefield that impacted Falls Township residents; and he would like to have Mr. Harvie invited to the Supervisors meeting to get his views since it seems that according to the Falls Township Meeting Minutes they are either interested in or in support of this. He asked Mr. Fedorchak to extend an invitation to Mr. Harvie and have this on the February 17<sup>th</sup> Agenda. Ms. Baxter stated there are people in their group that attend the Falls Township meetings. Ms. Baxter stated the proposed location is too close to people's drinking water. Mr. Benedetto asked Mr. Fedorchak to reach out to the EAC to have them weigh in on this as well at the meeting on February 17.

Mr. Tim Collins, stated he felt they were going to have Mr. McIlhinney and Mr. Santarsiero give their opinion as well. Ms. Baxter stated Mr. McIlhinney has written a letter to the DEP about his concerns, and Mr. Santarsiero's office indicated they were going to do that as well. She stated to some degree they are waiting for the Application Stage II to come out.

Mr. Lewis stated he understands that ElCon only has an option to purchase at this time.

Mr. Eisold stated based on the letter his office submitted several months ago, they did receive a general response to the Township's letter as well as a number of other letters. He stated he has a thirty-page packet answering a number of these questions and providing more information, and he could make this available to the Board as well as to Ms. Baxter. Mr. Eisold stated IES Engineers from Blue Bell, PA have put this response together.

Ms. Tyler asked Ms. Baxter if they have retained Counsel, and Ms. Baxter stated they have retained Michael Ewald from Maryland. Ms. Tyler asked if they are doing fundraising to pay legal fees, and Ms. Baxter stated they are. Ms. Tyler asked that the Township be advised of any of their fundraisers as she feels Township residents would like to attend and support them.

Mr. Lewis stated the Board had received from their Counsel in the fall a Memorandum of Understanding basically stating that Lower Makefield has Standing, and they could provide that document to Ms. Baxter as well.

Mr. Fritchey stated other Townships and Boroughs in the area would probably have the same Standing issues as Lower Makefield Township, and he feels it would be good to get a consensus. Ms. Baxter stated they are also working with a number of Townships in New Jersey. Mr. Fritchey stated it would be good to have a mobilization of communities expressing their concerns in a unified fashion which he feels would be better than doing it one by one. Mr. Fritchey stated Ms. Baxter's group should also make sure that the attorney they have retained is Licensed in Pennsylvania.

#### APPROVAL OF MINUTES

Ms. Tyler moved and Mr. Benedetto seconded to approve the Minutes of the December 15, 2015 Special Meeting as written. Motion carried with Mr. Benedetto and Ms. Tyler in favor and Mr. Fritchey, Mr. Lewis, and Ms. Reiss abstained.

Ms. Tyler moved and Mr. Benedetto seconded to approve the Minutes of the Meeting held on December 16, 2015 as written. Motion carried with Mr. Benedetto and Ms. Tyler in favor and Mr. Fritchey, Mr. Lewis, and Ms. Reiss abstained.

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to approve the Minutes of the meeting held January 4, 2016 as written.

#### APPROVAL OF DECEMBER 21, 2015, JANUARY 4, 2016, AND JANUARY 19, 2016 WARRANT LISTS, AND DECEMBER, 2015 PAYROLL

Ms. Reiss moved, Ms. Tyler seconded and it was unanimously carried to approve the December 21, 2015, January 4, 2016, and January 19, 2016 Warrant Lists, and December, 2015 Payroll as attached to the Minutes.

#### APPROVAL TO RE-OPEN 2016 BUDGET

Mr. Benedetto asked Mr. Fedorchak to provide a timeline if the Board votes to re-open the Budget. Mr. Fedorchak stated in accordance with the Second Class Township Code the Board would have to take final action on an Amended Budget on or before February 15. He stated if they make a decision to Amend the Budget that Amended Budget needs to be advertised ten days before the final decision. He stated at the next public meeting, February 3, the Board could consider Amending the 2016 Budget; and if they agree to an Amended Budget, on February 15, they would take the final vote. Mr. Benedetto stated this would have to be a special meeting, since the regularly-scheduled meeting is February 17.

Mr. Benedetto moved and Mr. Fritchey seconded to re-open the 2016 Budget.

Mr. Benedetto stated this is on the Agenda tonight because there has been discussion that there are things they need to do as a Township including hiring a Finance Director as well as improving communications and bringing someone on to do that. He stated they are also without a Public Works Director. Mr. Benedetto stated he is also concerned about road resurfacing. He stated Mr. Eisold came out with a report that talked about the Twenty-Five Year Plan which came in at approximately \$1.25 million a year for road resurfacing, and they are budgeted to spend approximately \$1 million. Mr. Benedetto stated there are also a lot of other projects they would like to do including the Community/Senior Center. He stated in the past they have talked about borrowing money for this, but he does not feel that this is the way to go; and he feels they should consider raising taxes. He stated they

are not voting tonight to raise taxes, but it is a discussion they should have since there are three new members on the Board, and they have an aggressive agenda. He stated from a millage standpoint, they have not had a tax increase for seven years. He stated the residents should be advised that these things cost money.

Ms. Tyler stated when they approved the Budget with respect to road resurfacing, Mr. Fedorchak had recommended that they Budget approximately \$700,000. She stated they took the surpluses they had available at the end of the year because of conservative budgeting, and added that to the road resurfacing so they were at \$1 million. She stated this year, they had Budgeted \$1 million but this requires the removal of over \$300,000 from the reserves; and if they begin depleting their reserves knowing that they are facing the potential of millions of dollars of borrowing with respect to the sewer, they are jeopardizing the bond rating. She stated for that reason she feels they should re-open the Budget. She stated she believes they should preserve the reserves and protect the bond rating, and for that reason she feels the Board should have a serious discussion about road resurfacing and where they are going to get the extra \$300,000. Ms. Tyler stated when their Transfer Taxes were up, they were able to put the extra money into road resurfacing; and she feels they could do this same thing but Budget only for \$700,000 rather than \$1 million.

Mr. Lewis stated this was a discussion at the last Budget Committee meeting, and there was a sense that the Board of Supervisors should not re-open the Budget unless there was significant deterioration in the Township's finances since the Budget had been approved or if there was a significant unmet specific need that without Budgetary action could not otherwise be absorbed by the Township's reserves and/or surplus. He stated he feels some members of the group wanted to know exactly why, for what amount, and what that would be going for. He stated he is concerned that the Township has not done an adequate job of informing the public of where their tax dollars are going and why they are in the financial circumstance they are in. He stated before they ask the public to give more money, they need to do a better job of communicating this so that the residents feel comfortable with it. He stated while the prior Board did review the Budget in December, increased the sewer rates by 10%, and had a significant increase in the lighting fee, he feels they need to do a better job of communicating to the people.

Mr. Fedorchak stated he feels if they want to re-open the Budget, they can discuss it on February 3 as a Public Hearing; and these issues and questions can be addressed, and they can provide answers to the best of their ability.

Mr. Lewis stated the reopening of the Budget really only revolves around setting tax rates, and Mr. Fedorchak stated they could also be changing certain dollar amounts within individual Departments, funds, and accounts. He stated if they were going to hire a Finance Director, he would recommend that they add at least \$150,000 to the Finance Department Budget. He stated with regard to roads, currently they have \$450,000 that they are taking out of last year's surplus and putting it into this year's Road Resurfacing Program in order to get it to at least \$1 million, although the number they were hoping to get to was \$1.25 million. He stated if they want to hire a Communications Officer, they would have to consider that as well.

Mr. Fedorchak announced that at the end of the year, he is planning to retire after twenty-three years as Township Manager; and this will also bring a certain degree of urgency as to staffing.

Ms. Reiss stated she feels that they should discuss this on February 3.

Mr. Fritchey stated over the last seven years the management structure of the Township has been largely compressed into the position of the Township Manager. He stated seven years ago they had a Township Manager, a Finance Director, a Sewer expert, and a Public Works Director all at substantial salaries; and all of these "hats" are now being worn by one man who is about to retire, and consequently they will not just be replacing one man but will be replacing four people if they are going to re-constitute the administrative and organizational structure of the Township offices as they were before the financial crisis of 2008 hit and the resultant contractions of management within the Township occurred. He stated these positions are not totally budgeted for, although they have budgeting for a Public Works Director who has not yet been hired. He stated he feels they should have a CFO as well as a CEO. He commended Mr. Fedorchak for his fidelity to the Township in "wearing all of these hats" for essentially the same salary. Mr. Fritchey stated the situation has changed significantly since October when they were reviewing the Budget, and this does not include the roads and the sewer problem. He stated with regard to the sewers, they are being told by the Morrisville Municipal Authority that there are only two solutions one of which will cost \$85 million to repair the sixty-year old sewer facility that has been deteriorating over time or building a new facility for \$117 million on a property that the Township has been told has serious environmental problems including but not limited to arsenic. He stated there is linkage of a new plant to one specific site that has toxic waste problems, so he feels they need serious advice from very capable engineers and attorneys as this will be a very expensive problem to remedy. He stated he feels the Township is looking at a very substantial bond issue, and it is therefore critical that they not do anything to jeopardize the Township's bond rating. He stated under Mr. Fedorchak's watch,

they still managed to retain the AA1 bond rating which is very fortunate since if they are going to have to borrow \$100 million or more, they want this rating so that they do not have to pay catastrophic interest rates.

Mr. Zachary Rubin, 1661 Covington Road, stated he is in support of re-opening the 2016 Budget because the current Budget does not fund what the Township needs. He stated when the building was built in 1976, there was an Assistant Township Manager despite having less residents and less developments than there are now; and he feels they need a Finance Director or an Assistant Manager now and not wait until the end of the year as well as a Public Works Director. He stated a number of years ago Mr. Fritchey gave a report regarding Parks and Recreation which indicated that our Township, for its size, did not have adequate ball fields. Mr. Rubin stated he feels they are still in that situation, and the Township's recreation facilities should be increased. He added that that the Community Center/Senior Center will involve borrowing a great deal of money as opposed to paying it up front, and if they paid for it with taxpayer money, they would not have to pay debt service on it. Mr. Rubin stated he currently pays the Township \$495 a year in local taxes. He stated if the Township were to increase the tax rate 2 mills, he would pay an additional \$65.56 per year to get adequate people in management, adequate roads, a Senior Center, and recreational facilities. He stated those who itemize their taxes can write that off on the Federal Income Tax, and at the 25% rate they would be paying \$40 a year to raise \$1 million; and he does not feel anyone would be moving out of the Township if they had to pay \$40 or \$50 more a year.

Mr. Ken Seda stated he would also be in favor of opening the Budget. He stated with the Twenty-Five Year Road Plan, if they are short at any point in that Plan, it means that they will have to make it up at some point. He stated he also believes that they need a Finance Director. He stated he feels many of the decisions were made so that they could say at the end of the year that they did not raise taxes; and while he is happy that they did not raise taxes all those years, if the quality of life is jeopardized and the re-sale value of his home is jeopardized because the roads are not paved and there are not adequate recreational facilities, they are not "playing the long game." He also does not feel they should just raise taxes; and they need to make it very clear what they need to do so that people understand specifically where the monies will go, and not go into a "slush fund" that can be used at the "whim" of whoever is running the Township.

Ms. Reiss stated people do not want funds "willy-nilly" put into a fund to be used as they need it. She stated she feels the quality of life is the re-sale value of the homes and what they see and do in the Township. She stated there are a lot of things people in the Township want; and if they are very specific about where money is going, she feels people will buy into it and it will not be a problem.

Motion carried unanimously.

#### APPOINTMENT OF TOWNSHIP SOLICITOR

Mr. Benedetto stated last evening they interviewed five highly-qualified candidates for Township solicitor.

Ms. Tyler stated this year they are facing the impending sewer issue which is not something that they face on an average year, and she is evaluating whether these firms would have the ability to represent the Township with respect to Morrisville. She stated she does not feel she will be able to get three votes in favor of Jeff Garton as this was a “done deal” as soon as the Election was over. She stated one of the candidates, Mr. Savona from Eastburn and Gray, had a lot of depth regarding DEP and sewers, and is not involved with local politics; and she feels he was very qualified. She stated she understands there are three Supervisors who have already agreed long before the interviews to have the Curtin & Heefner firm.

Ms. Tyler stated when they interviewed Curtin & Heefner last night she did note the amount of legal fees charged by them. Ms. Tyler stated Begley Carlin had represented the Township since 1980 except for six years from 2006 to 2012. She stated in 2013 Begley Carlin again handled all of their work at a rate of \$145 an hour and the Township was billed for 739 billable hours. Ms. Tyler stated in 2010 and 2011, when they were represented by Curtin & Heefner and then Hill Wallach, they were billed 2,378 billable hours for a total of \$344,000 in 2011 and 2,232 billable hours for 2010 which is three times more in legal fees. Ms. Tyler stated when she raised this issue to the Board during the Interviews last night, rather than agreeing to look into it, it was indicated that there might have been “something else going on.”

Ms. Tyler moved to appoint Eastburn and Gray because of Mr. Savona’s depth, his detachment from local politics, and because of his knowledge and ability to represent the Township with regard to the sewer issues.

Ms. Tyler stated if they do not go with someone like Mr. Savona, they are going to have to hire independent sewer counsel which they may do anyway.

Mr. Fritchey seconded.

Mr. Lewis stated there was a great discussion with the firms; and from a procurement perspective, they received initial Bids from all of them, and secured from all of them the agreement that they would match the lowest rate. He stated this will help to get to a price the Board can feel comfortable with. Mr. Lewis stated he was also impressed with Eastburn and Gray and Mr. Savona who did an excellent job as it relates to discussing alternative revenues sources and sewer issues. Mr. Lewis stated depending on how this works out, there may or may not be a sewer

counsel; and if that were the case, Mr. Savona would certainly be someone to consider. Mr. Lewis stated Mr. Flager of Flager & Associates was also very strong on sewer issues and on local Municipality issues. Mr. Lewis stated one of the challenges he had with Eastburn & Gray is that their “star” lawyer, John VanLuvanee, represents many developers in the area so that would lead to higher conflict situations. Mr. Lewis stated with regard to Curtin & Heefner, they are a very good firm; but not one he would see suited to be their general solicitor although he could see them serve other areas of the Township in the future. Mr. Lewis stated Mr. Truelove from Hill Wallach has previously served the Township as solicitor and has lived in the Township for thirty-two years. Mr. Lewis stated he has served on community groups with Mr. Truelove. Mr. Lewis stated Mr. Truelove had very strong answers on a number of issues they were talking about and great institutional knowledge which would help mitigate the total cost of ownership of the solicitor. He stated with regard to Begley Carlin, on a personal level he feels Mr. Garton is excellent; but he was unhappy with the conflicts that arose that the Township was not necessarily informed of in a timely manner. He stated Mr. Garton’s service to the Township has been worthy of respect. Mr. Lewis stated he feels there are good cases for each of the firms; although he does have a bias toward Mr. Truelove of Hill Wallach as he feels the firm has the depth and capability, and they are willing to meet the price requirement. He stated as they look at firms, he understands that this evening they are just going to appoint a Solicitor; and they may need to come back for a conflict attorney and a sewer specialist in the future. He stated if they go with Hill Wallach, they would have their choice of two very good firms for the a sewer solicitor in Eastburn & Gray and Flager & Associates; and he feels either of them would do an admirable job in the sewer role. He stated this also open up all those firms who could be the Zoning Hearing Board solicitor since the current Zoning Hearing Board solicitor is Hill Wallach so they would have to resign.

Mr. Fritchey stated he was very impressed with Mr. Savona and showed a great breadth of knowledge and had no conflicts of interest. Mr. Fritchey stated of the five firms, he does not feel they would be going wrong with any of them; and the people who would be representing the Township from each of the firms were all very capable, confident professionals. Mr. Fritchey stated his concern with Hill Wallach is not that it is not an excellent firm as it is, but he has concerns about past billings; and he feels it is very hard for an attorney to get 2,300 billable hours in a year. He noted the number of Board members who were practicing attorneys and 2,300 billable hours in a year means you would have to work about 3,000 hours which is a staggering amount of hours. Mr. Fritchey stated while he is happy to have Mr. Truelove represent the Township, they need to work out something where there is a retainer that would keep costs within a reasonable limit particularly if they are going to review all of the Township Ordinances as has been proposed. He stated he is concerned about how the remuneration will be capped.

Ms. Reiss stated she was very impressed with all of the attorneys; and while they may not want someone politically involved, if you go into any firm, they tend to support all sides. She stated she feels someone local knowing “all the players on the field” is important. Ms. Reiss stated she was very impressed with Mr. Flager and noted that while she is not friends with Mr. Flager, she does know him. She stated he does a lot of Municipal work, and he is very strong. She stated she has known Mr. Garton for all the years he has been with the Township, and he has been very helpful to her when she had issues which he was able to resolve; however, she was concerned with some issues last year when they were directed to do one thing, and they did something else. Ms. Reiss stated as to billable hours, one attorney does not always work on a problem; and it might have been the time they were working against Matrix and sometimes the Attorney of Record is not the one working on it, and there could be paralegals and other attorneys working to get something done. Ms. Reiss stated she feels Hill Wallach is a very strong firm, and they have the ability to use their attorneys across the River that are licensed in Pennsylvania. She stated they had a lot of depth with sewer and Municipal issues, and she would tend to go with Hill Wallach.

Mr. Benedetto stated of the five firms interviewed, he felt there were two clear candidates that were the best and they were Hill Wallach and Eastburn & Gray. He stated he feels what put Hill Wallach above Eastburn & Gray is because Mr. Truelove has lived in the Township for thirty-two years, and he has done this job. Mr. Benedetto stated as Liaison to the Zoning Hearing Board, he has worked with Ms. Barbara Kirk; and he has not seen anyone as accomplished or as impressive as Barbara Kirk, and the Zoning Hearing Board will be very sorry to lose her. He stated Ms. Kirk would be part of the team who will look at the Township Ordinances, and he stated she is the one he goes to when he has questions about the Ordinances. He stated while he does not feel the Township could go wrong with any of the five, he would be in favor of supporting Hill Wallach.

Mr. David White, Yale Drive, stated he is familiar with Mr. Truelove, and he has heard a lot of good things about him. He stated with regard to Eastburn & Gray, whenever he sees an article in the paper about a developer protesting a Municipality, it is Mr. VanLuvanee’s name that he sees; and he questions if they employ that firm, that they will find themselves in conflict more often than they wish.

Mr. Zachary Rubin stated with regard to the comment about billings, he feels that the six years when Mr. Truelove was their attorney were years when the Board was very proactive and not reactive; and it was during those years that the Township created a number of new citizen committees that needed legal and other advice.

Mr. Rubin stated they were involved in the Dalgewicz Appeal which cost a lot of money. He stated during the Matrix controversy, the Township with Begley & Carlin opposed Residents Against Matrix and supported Matrix; and he and a lot of other people in the Township spent a lot of money on legal fees fighting the Township which was represented by Begley & Carlin, and fortunately the compromise they got was very beneficial. He stated with RAFR, the Township was on the side of the citizens and did spend legal fees fighting the Aria Application. He stated the billable hours represented the activities of the Township.

Mr. Tom Conoscenti, 1595 Ginkgo Lane stated Mr. VanLuvanee is representing the neighborhood group in support of the Zoning Hearing Board Decision with regard to the Satterthwaite parcel.

Motion to appoint Eastburn & Gray, Mike Savona as Township Solicitor did not carry as Mr. Fritchey and Ms. Tyler were in favor and Mr. Benedetto, Mr. Lewis, and Ms. Reiss were opposed.

Ms. Reiss moved and Mr. Benedetto seconded to appoint David Truelove of Hill Wallach as Township solicitor.

Mr. Fritchey asked about the fee structure, and Mr. Benedetto stated his billable hours as discussed last evening were \$145 an hour. He stated they also discussed a retainer, and he believes all five were open to working with the Township on a fee structure. Mr. Lewis stated one of the proposals had separate hourly arrangements for paralegals; and depending on how they would use that, this could help drive the price down as well. He stated they are still in discussions on a retainer structure to help reduce the total cost. He stated they need to keep this as low as possible. He stated they did receive an offer of a retainer today; however, neither Mr. Fritchey nor Ms. Tyler were aware of this offer. Mr. Benedetto stated he believes Mr. Truelove had indicated, based on the concerns expressed about Hill Wallach's billable hours, that he was, as all of the firms were, interested in doing as part of the fee structure \$145 an hour and also a retainer.

Ms. Tyler stated she is concerned that they will be back in the position they were in back in 2010 where the hourly was the same between Begley Carlin and Curtin & Heefner at \$145 per hour. Mr. Lewis stated he feels it will be similar to where they were at with Begley Carlin in the early 2000s where they had a retainer for a certain number of hours. He stated the one drawback of that is that there is a "use or lose;" and in the summer months when there is one less meeting or if there are periods where they do not have as much in terms of legal needs, they might lose out a little bit on the retainer structure.

Ms. Tyler stated safeguarding tax dollars is the Board's number one priority and all Board members are charged with that duty, and she is disturbed that no one is as alarmed as she is by the triple numbers that she referenced and that no one wants to look back into the substance of those billings. She stated that is a significant difference in billings, and is not 10% rather it is 300% more; and they are looking to re-appoint the same billers without any stopgaps. She stated they may want to cap it at \$12,500 a month; and if he exceeds that, it would have to be specifically approved by the Board. She stated they need to go and look at 2010 and those years prior to see if there was a justification for that excessive difference between our counsel. She stated this decision was made before they even did the Interviews, and they should be honest with the public.

Mr. Benedetto called the question; however, Mr. Fritchey and Ms. Tyler asked for clarification of the Motion, and Mr. Benedetto stated the Motion is to appoint Hill Wallach. Mr. Benedetto added Mr. Truelove has already indicated their interest in \$145 and working with the Township, as all five solicitors were, on a fee structure. Mr. Benedetto stated Hill Wallach indicated they were also okay with doing a retainer as part of this. He stated they do not have a solicitor today, and he feels they need to appoint someone.

Mr. Fritchey stated he would like to be on board with this, but he would like to know what he is "buying into." He stated he is uncomfortable without having some clarification about where they stand with respect to doing a Retainer Agreement versus just \$145 for however many hours they bill. He stated it seems that they are entering into an open-ended Contract.

Mr. Lewis suggested that they engage the solicitor for a period of one month on a per hour basis, and during that period they work out something. Mr. Fritchey stated he would be more comfortable with that. He stated he understands that Mr. Truelove was probably involved with litigation with Aria and there was a lot of activity; but typically when you have litigation, there will be an increase in expenses and possibly even 50% more, but there still seems to be a big difference in the number of hours, and he is concerned with this.

Mr. Lewis moved to Amend the Motion selecting David Truelove of Hill Wallach as the Solicitor subject to a fee schedule of \$145 per hour for the period between January 21 through February 21. Ms. Reiss accepted the Amendment, and the Motion carried with Ms. Tyler opposed.

Ms. Tyler asked if anyone wants to look at all the bills she has been referring to, and the Board indicated they would be interested in looking at all the bills. Mr. Fedorchak stated he could go back at least seven years, and Ms. Tyler asked that he provide all Township paid legal bills for all firms going back as far as he can.

Mr. Seda stated Ms. Tyler made a comment about a “deal being struck” before the Interviews, and he feels this is “back stabbing.” He stated a previous Republican Board “could not wait” to get Begley Carlin back, and he feels this Board should be better. Ms. Tyler stated she feels the Board should be honest with the Electorate, and the day after the Election there was a conversation. Ms. Reiss stated she spoke with Mr. Flager, and she did not make any deals before or after the Election. Mr. Seda stated he does feel they should look at the billable hours, but the manner in which Ms. Tyler did it was a little “snipey and hypocritical.” Ms. Tyler stated when they re-appointed Mr. Garton, he had been their attorney since 1980; and if he billed over \$110,000, that was a lot for a year. She stated it is the Board’s job to get the best legal counsel they can for the best price for the Township; and the fact that her colleagues are not as alarmed as she is when looking at these numbers, is troubling. She stated now they are going to look at the numbers, and hopefully everyone will put the Township’s best interest ahead of all else.

#### BRAAM UPDATE ON TRENTON MERCER AIRPORT LEGAL ACTION

Ms. Holly Bussey, 20 Knoll Drive, was present with attorney, Mr. Bill Potter. She provided a history of their organization which was founded in 1999 and their mission is to insure that the Trenton Mercer Airport abides by Federal law and regulations and that all improvements and/or expansion does not occur until the Airport properly adheres to all regulations including an Environmental Impact Statement (EIS) and also abides by the National Environmental Policy Act. She stated their goal is not to close down the Airport, but to insure that the operations comply with the law and that they act as a good neighbor, which they are currently not in compliance. She stated in 2006 after a long battle BRAAM won an initial suit that resulted in the Court stating that if another low-fare, high-frequency airlines was introduced, it would require Trenton Mercer Airport to immediately do an EIS. She stated the Airport has historically done a series of improvements and expansions and brought in airline service without adhering to the law. She stated projects have increased the size and capacity of the Airport; and over time, this has altered the Airport’s original character from being a small, good neighbor, friendly community Airport to an aggressively-expanding Federally-funded, unplanned and unregulated Airport that has made Pennsylvania residents’ quality of life “miserable,” and could have a significant economic impact to this historic area.

Ms. Bussey stated the FAA was made aware that Trenton Mercer did not initiate an EIS in the Eastwinds Airlines days; and the FAA acknowledged their negligence by threatening to withdraw Eastwinds Certificate of Operational Authority. She stated Eastwinds went “belly-up;” and several Courts indicated that if a low-fair, high-frequency airline was introduced, an EIS would be required. Ms. Bussey stated in

2012/2013 Frontier introduced airline service, and in April, 2013 BRAAM through their Counsel, sent a detailed letter to the Mercer County Executive asking why they were doing this without following the FAA and Federal Government guidelines that were established. She stated the FAA response was inconclusive, and they stated BRAAM's concerns were unfounded. She stated Frontier was granted permission to operate with a categorical exclusion which means that the initial two flights per day could expand to twenty or two-hundred flights a day with no additional monitoring. Ms. Bussey stated it has become clear that the Airport is part of a larger plan and will continue to expand.

Ms. Bussey stated in 2015, Lower Makefield Township agreed to provide funding and to be named in the lawsuit questioning why an EIS was not being required. She stated they were also supported by Yardley Borough and Upper Makefield Township along with a large amount of generous private donations. She stated in May, 2015 before the Trenton District Court, their Case was heard; and the Judge ruled against their suit saying it was not founded. She stated BRAAM immediately filed an Appeal in the Third Circuit Court of Appeal in Philadelphia, but the FAA caused the Appeal to be delayed. She stated in November, 2015 the Court determined that BRAAM's Appeal was warranted, and BRAAM is now in the process of preparing a Brief.

Ms. Bussey stated in the past Lower Makefield Township has worked with BRAAM to help Mercer County be good neighbors. She stated any expansion will bring more traffic since the main approaches are over Lower Makefield Township, and increased traffic will require the utilization of all runways with the main approach over Lower Makefield. She stated any expansion will impact the Township's quality life and real estate values. She stated the Delaware Valley Regional Planning Commission is still expecting commercial air traffic at Trenton Mercer to go up 47% in the next ten years, and the Airport is being proposed as a relief airport for Newark, JFK, LaGuardia, and possibly Philadelphia.

Ms. Bussey stated BRAAM consists of over 250 members of the community as well as representation in New Jersey, Langhorne, and Northampton Township. She stated the State and National legislators are supporting BRAAM.

Ms. Bussey stated Trenton Mercer Airport has filed for an Environmental Assessment regarding the impact of removing barriers from the runway approaches which means they could then fly in lower at landing and take off which would save fuel.

Mr. Bill Potter, attorney with Potter & Dickson in New Jersey, stated he has been doing environmental law for over thirty years, and has been an adjunct professor of environmental law and politics. He stated has been honored to represent BRAAM as

well as the Township itself over the years. He stated they prevailed one time such that if Trenton Mercer attempted to bring in another high-frequency carrier, they would have to comply with the Environment Policy Act and do an EIS. He stated they not only want a document prepared, but they also want mitigation measures to reduce the level of noise, vibration, air pollution, etc. which is afflicting people on the Pennsylvania side of the River. He stated it is not having a similar effect on the New Jersey side.

Mr. Fritchey asked if there is a sequence of relief they have to obtain, and Mr. Potter stated they would have to get the EIS before they can get mitigation measures. Mr. Potter stated the FAA acknowledged in 2006 that they have to do a comprehensive Environmental Impact Statement looking at the cumulative, secondary, and primary impacts of high-frequency air service out of Trenton Mercer Airport. He stated he has never seen such a “bold, deceptive, and disingenuous decision” as he has seen from the FAA on this case. He stated when they approved bringing in two daytime flights a week from Frontier Airlines, that decision constituted blanket approval for Frontier thereafter to increase the number of flights and the hours of those flights without limitation or any environmental or safety review whatever. He stated he feels there should be a Congressional investigation of the FAA on this policy because it is “lawless.”

Mr. Potter stated at the District Court level in May he argued that they should enjoin Frontier Airlines from making any more increases in their flight patterns until an EIS was done and mitigation was attempted on the noise, vibration, etc.; and he had thought they had won on oral argument, but ten days later to his disbelief they found that the Court has agreed with the FAA and was dismissing their lawsuit on the theory that they should have filed an Appeal within 60 days of the operation specifications even though it was never made public. He stated nowhere in the operation specification does it say anything about the number of flights other than the two flights a week requested by Frontier Airlines.

Mr. Fritchey asked if this adverse ruling came from the District Court in Trenton, and Mr. Potter agreed and the Judge was Judge Peter Sheridan. Mr. Potter stated they then Appealed to the Third Circuit, and the FAA filed a Motion for Summary Affirmance, and he had to file Briefs in opposition to that which was eventually rejected; and now he is filing his initial Brief on the merits of the case which is due this Monday. He stated he feels they have a good chance of prevailing. He stated he feels if the Frontier Airlines can get away with this, then any airline can get away with this; and Frontier Airlines could expand from sixty-seven flights a week to one hundred and sixty flights a week and fly at any hour of the day or night. He stated the FAA has basically stated that they are deregulating the safety and environmental aspects of Frontier Airlines operations out of Trenton Mercer Airport, and he feels this is a “scandal.”

Mr. Benedetto stated he knows that the Township has supported BRAAM's efforts in the past in the amount of \$15,000. He asked if BRAAM is requesting additional funds; and Mr. Potter stated when the BRAAM people voluntarily organized and did fundraising, they were really doing the job of Government in terms of protecting the interests of the people in Pennsylvania. He stated it is very appropriate for the local Governments to contribute to that cause.

Ms. Tyler asked if they are successful in Court and the EIS is required, what would they expect to come from that EIS and what do they expect to accomplish. Mr. Potter stated they hope to have a thorough investigation of the noise, vibration, and air pollution impacts, and a sincere effort at mitigation of those impacts. He stated at the same time they are seeking an injunction against any expansion of flights until that EIS has been completed and there is a mitigation in place. He stated the FAA in response to one of his letters of objection indicated that by August of 2013 they would have completed a noise mitigation study, and he felt that they would not have to sue; however, August, 2013 came and went and no study was done. Mr. Potter stated in oral argument in front of Judge Sheridan, Judge Sheridan asked the U.S. Attorney about the study that was promised; and the U.S. Attorney indicated that they did not do it, and they did not have any plans to do the study. Ms. Tyler asked why they are not doing the study, and Mr. Potter stated he feels they are not doing it because it will show that they have been remiss in their responsibilities; and he feels if they can see that if they have to do a mitigation effort, they would have to cut back on the number of flights, change the flight patterns, or some combination of both.

Ms. Tyler asked the difference between a major airport and this regional airport, and Mr. Potter stated as a matter of law there is no difference other than the difference in size. Ms. Tyler asked for a description of the results of an EIS Mr. Potter has seen conducted, and what mitigation was put in place. Mr. Potter stated if they are ordered to do an EIS, they would have to do a noise mitigation study which would entail using experts to measure the levels of noise and vibration levels; and their experts would then have to come up with a mitigation plan to reduce the noise levels to an acceptable level. Ms. Tyler asked if this would involve altering flight paths, and Mr. Potter stated it would be altering flight paths or reducing the number of flights and cutting back on the late night and early morning flights.

Mr. Lewis asked the height of planes flying over Lower Makefield, and Mr. Potter stated he has been told it is approximately 200 feet. Mr. Lewis stated there is a Noise Ordinance in the Township, and he asked if they would be able to fine them if they violate the Noise Ordinance; however, Mr. Potter stated he feels fining them would be preempted by Federal law.

Ms. Reiss stated there were similar problems with Willow Grove, and all that saved them was that Willow Grove closed.

Mr. Potter stated they submitted approximately forty Affidavits from residents of Pennsylvania mostly from Lower Makefield Township attesting to the impact on their quality of life, their inability to converse on the telephone when a plane was flying over, vibrations that caused mirrors to fall from walls, and children being woken up in the night and not being able to get back to sleep, etc. He stated they submitted those to show that they had Standing to sue which is difficult to prove in Federal Court, and this was acknowledged.

Mr. Ed Gavin, 904 Sensor Road, stated there are other airports in other parts of the Country where there are restrictions imposed by the FAA; and Ms. Bussey stated given the result of the EIS they may be able to get mitigation, but without an EIS, they have nothing to stand on.

Mr. Ron Harland, 1 Harlow Court, stated this is damaging the community; and this has already had an effect on the quality of life and property values, and the EIS also provides a basis for the community to go after inverse condemnation against the airlines. He stated there have also been fuel dumps into the community as well, and there is not sufficient enough emergency clearing for the type and size of the planes that are here. He stated there have been several neighbors who have seen fuel on their property. Mr. Harland stated BRAAM needs money as it is defending the community for the Township, and this action should be coming from the legislative bodies of the communities. Mr. Harland stated Trenton is one of the only airports that spans between two States, so it is a State to State argument; and they should be having Representatives and Senators argue this so that there is fulfillment of law.

Mr. Zachary Rubin stated they are having problems with the FAA performing its regulatory abilities so it may be possible in November to elect people to the Senate and House of Representatives who want to strengthen the regulatory agencies such as the FAA and the EPA.

Ms. Eileen Killeen, 1116 University Drive, stated she attended the Court briefing in May; and the Judge asked the FAA lawyer based on this categorical exclusion who gets to determine how many flights per week get to fly out of Trenton Mercer Airport, and the FAA lawyer said it was Frontier Airlines according to their best business judgment. She stated she finds it egregious that a regulatory body is allowing a for-profit organization to determine how many flights per week there are since they will not take into their decision the residents' health and well being. She asked that the Township consider whatever financial requests that BRAAM asks for.

Mr. Don Wilcox, 81 N. Delaware Avenue, stated this effort has been fought for many years; and a number of people have come out tonight to support this presentation. He stated it is appropriate that they are having this discussion tonight on an evening when they celebrated the efforts of Supervisor Fritchey with regard to Parks and Recreation since one of the real assets of the community is being able to get outside and experience the beauty and historical value of the area. He stated his evenings sitting outside and walking down the Delaware Canal are completely disrupted by the airplanes. He stated he feels strongly that this is a worthwhile cause to pursue.

Ms. Bussey stated this is more than just a grass roots operation and BRAAM has raised over \$25,000 on their own this past year. She stated if they do not get the EIS and Trenton Mercer Airport and the FAA continue to do what they wish, by the time everyone else “wakes up,” it will be too late. She stated they are asking the Board of Supervisors to help support them further. She stated the first round of this was twelve years ago, and the Township Board of Supervisors funded them in excess of \$85,000. She stated they are not asking for that. She stated they have been extremely prudent, and Mr. Potter has been extremely generous with his time and billings; but they do need money. She stated a Brief must be prepared, and there will then be a Hearing. She stated they are looking to the Township for substantial support. Mr. Benedetto asked if they are looking for contributions from other Townships, and Ms. Bussey stated that is underway. Mr. Benedetto asked if the \$85,000 amount mentioned by Ms. Bussey included the \$15,000 that was paid more recently; and Ms. Bussey stated the \$85,000 was for the first round that ended in 2006. She stated up until today for the second round that started in 2013, Lower Makefield Township gave them \$15,000. She stated the total Municipal support for this effort has been \$27,000 with \$15,000 coming from Lower Makefield.

Ms. Tyler asked Mr. Potter what his hourly rate is for BRAAM; however, Mr. Potter stated he does not remember although it has not changed since 2000. Ms. Tyler asked how many hours he has billed on this endeavor since 2013; however, Mr. Potter stated he did not know although it has been hundreds of hours. Ms. Tyler asked Mr. Potter if he has been paid in full, and he stated he has not; and he feels approximately \$15,000 is outstanding at the present time. Ms. Tyler stated she feels that before the Board makes any financial commitment on this endeavor that they review the legal bills to date, see what are the hourly billable hours, and wait to see what is the decision from the Third Circuit Court. She stated if they win at the Third Circuit Court, they could consider moving forward.

Mr. Potter stated he feels this is a mistake, and he added they need resources to proceed into winning at the Third Circuit. He stated they are filing the initial Brief on Monday, and he and his law partner have been working to prepare that Brief. He stated there will be a reply Brief required by the FAA due within thirty days, and he will have an opportunity to follow a Responsive Brief after that; and then there

will be oral argument. He stated if they prevail at the Third Circuit, it will be Remanded to District Court to oversee the FAA's preparation of the EIS. Ms. Tyler asked Mr. Potter what he estimates the total hours to be to accomplish the tasks he has just outlined; however, Mr. Potter stated he did not know. Ms. Bussey stated to prepare the Brief, the bill was \$11,000. She stated up until the middle of last year, the Township was being given copies of all the invoices. She stated the initial \$15,000 went to file the initial suit and to be named as a Petitioner. She stated currently they owe Mr. Potter approximately \$15,000. She stated Mr. Potter and his partner have been instructed not go above \$12,000 in preparing the Brief. She stated they do not have a retainer, and they have never required BRAAM to hold a retainer which they greatly appreciated. She stated they also do not charge them interest. She stated BRAAM is nervous because their membership has been extraordinary generous, but this is something that effects everyone. She asked that the Board consider this when they open up their Budget.

Mr. Benedetto stated Lower Makefield has contributed \$15,000 which is more than Yardley Borough and Upper Makefield, and the Township has supported BRAAM's efforts including the previous contribution of \$85,000. He stated he feels Lower Makefield has done something beyond any of the other Townships by BRAAM's own accounting. Ms. Bussey stated Lower Makefield is the most effected. Mr. Benedetto stated going to the other Townships for additional money would make sense. He stated he does not feel comfortable supporting additional funds at this time.

Ms. Tyler stated she is not against providing additional funds, but she wants to see what was spent and what their forecast is on spending. She stated she feels this cause is valid, and it is a significant quality of life issue; but the Township needs to know exactly what it is that they are paying for.

Mr. Fritchey stated he feels they are nine months to a year away from a resolution as to when they will know whether or not they will be going back to Trenton. He stated the costs in terms of this are pretty finite as they will have to write a Brief, which Mr. Potter is close to done with, they will then get a reply brief, and they would then argue it. He stated if BRAAM wins, the fight could go on. He stated if they do not win, their ultimate recourse would be what Mr. Rubin referred to with respect to electing a Congress and President that is more in favor of certain regulations. Mr. Fritchey stated while they may share Mr. Potter's concerns about the FAA and how vigorously they are enforcing the regulations as he reads them, if the Courts side with Judge Sheridan, he is not sure where they would go from there. Mr. Fritchey stated he agrees with Mr. Benedetto that maybe some of the other Municipalities should step up.

Mr. Fedorchak stated with regard to Mr. Potter's hourly rate, he was able to find the files on this matter, and he has an Invoice showing the rate of \$250 per hour; and Mr. Potter agreed this is correct.

Mr. Tim Collins stated he understands that they are trying to get an EIS. He asked Mr. Potter to explain the difference between Trenton Regional Airport receiving a "win" from the EIS based on traffic and population versus Newark or any other airport. He asked how they would determine a "win" when there are all these other airports such as Midway that has planes going right over traffic lights where there are thousands of residents. Mr. Potter stated you really do not compare it to other airports, and you compare it to the base line which was pre Frontier Airlines; and you look at the change in noise, vibration, and pollution from the introduction of the low-fare, high-frequency air service that Frontier is providing. He stated they do not look at it as compared to Midway Airport, rather you look at it on a case-by-case basis, and the impact on the local population; and this is where they are focused. Mr. Potter stated there are plenty of instances around the Country where the Courts have ordered the FAA to prepare Environmental Impact Statements, and they have resulted in mitigation measures against noise, vibration, etc. so it is possible to produce a positive result after the EIS is prepared.

Ms. Reiss asked the time of the last scheduled arrival at night currently.  
Ms. Bussey stated it is midnight, but there can be delays.

Mr. Harland stated if they do not do anything, they are going to get a Midway Airport; and if the Board wants Lower Makefield to look like Midway and the communities around it, they should do nothing. Ms. Tyler stated they have already contributed \$100,000. Mr. Harland stated the action is taking place now, and there is a quantifiable amount of money that has to be spent in order for the community to preserve itself. He stated there is already a demise in the property values in the areas of the landing. He stated Trenton Airport has also announced a fourfold increase in its traffic over the next two years. He stated they need to look at the timing.

Mr. Benedetto stated he would not support a Motion to make any additional funds at this time, adding Lower Makefield has gone above any other Township with Upper Makefield contributing \$10,000 and \$2,000 from Yardley Borough. He stated he appreciates the fact that they have come in to educate them on what is going on; and possibly in the future if additional litigation takes place, the Board could continue to support what they have done.

Mr. Don Wilcox stated they appreciate the contributions that Lower Makefield has made adding that Lower Makefield and Yardley are the most impacted communities; but he feels the Board needs to consider the per capita rather than the

total amount given by a community. He stated they are at a juncture where they need to determine if they can go forward as this is probably their last chance; and if they do not have the funding to provide an adequate argument to win the case, they will be done. He stated at that point if Lower Makefield has not contributed, he feels the Board will have to ask themselves if they did what was best for the people who elected them.

Ms. Tyler asked how much they are asking for; however, Ms. Bussey stated they did not come up with a number tonight, and the purpose was to let them know that they will be coming to ask for additional money. She stated they have to get their bills under control or she fears that their Counsel will not be able to continue. She stated they would like to have at least some help initially to help pay for the Brief. She stated the \$15,000 was to file the initial suit only and everything else since then has been paid for by BRAAM as private citizens which she feels is admirable; and she feels the Township needs to consider this.

Mr. Joe Menard, 917 Putnam Drive, asked if they have made this presentation to the other Townships; and Ms. Bussey stated they have, but they have not heard anything from them yet. She stated those communities look at this as a Lower Makefield Township issue, and she feels Lower Makefield Township should speak to the leaders in those other communities. She stated there is only so much BRAAM can do as private citizens. Mr. Menard stated it appears that Lower Makefield, Upper Makefield, and Yardley are the most impacted by the flight patterns. He asked about Mercer County; however, Ms. Tyler stated they are putting the traffic on the Pennsylvania side. Mr. Potter stated three quarters of the Affidavits submitted in support of the lawsuit were filed by residents of Lower Makefield Township and two were submitted by residents of Pennington, New Jersey. He stated it is clearly a Lower Makefield Township impact. Mr. Menard asked why it is not the same for Yardley Borough and Upper Makefield. Ms. Bussey stated the issue of flight patterns and effectiveness is very complicated, and she suggested Mr. Menard attend a BRAAM meeting so that it could be explained in detail. She stated the way the Airport is structured, the approaches and the height descent rate is always going to effect Lower Makefield at a higher rate than any other location. She stated Langhorne and Northampton are starting to notice it as well. Ms. Bussey stated BRAAM needs help and the Lower Makefield Supervisors carry weight with their fellow colleagues in other Municipalities, and it would be nice if it were more of a group effort. Mr. Menard stated before a decision is made, they should include and understand the surrounding Municipalities commitments to do the same.

Ms. Tyler stated she is not inclined to say that they will not give funding, and she feels the ratio that BRAAM receives from Yardley Borough and Upper Makefield is representative of a problem. She asked that BRAAM show them what they need adding they can discuss it when they re-open the Budget. Mr. Benedetto stated

February 15 will be the meeting to determine if they are going to approve an Amended Budget, and he asked that they come back at the February 17 meeting since they will should then have a better idea about support from other communities. He stated the Board will be in a better position to make a decision at that time. Ms. Tyler asked that BRAAM get the Township the number they are looking for in advance of that meeting.

A short recess was taken at this time.

#### APPROVAL TO INCREASE TAX CERTIFICATION FEE

Ms. Becky Cecchine, Tax Collector, was present and stated she presented a detailed analysis to the Board about this issue including the fees charged in other Municipalities as well as what she is charging. She stated she also provided an analysis of their staffing, hours of operations, and whether or not the other Municipalities provide an office or the work is done in the Tax Collector's home. Ms. Cecchine stated the average cost of the Certification Fee being charged is \$35. Ms. Cecchine noted she does provide updates without charge if Settlement is delayed.

Ms. Tyler asked for an explanation of the Fee, and Ms. Cecchine stated any time there is a sale of a property, a refinancing, or a foreclosure they need to certify that everything is paid.

Mr. Fedorchak was asked what is needed by the Board, and Mr. Fedorchak stated a Motion is required. Ms. Tyler stated she feels a Resolution is needed so they will need to have the attorney prepare a Resolution although the Board could make a Motion to approve the amount. Ms. Tyler stated Ms. Cecchine is looking to go to \$35 for the Certification Fee. Ms. Cecchine stated the Fee has not been increased since at least 1993. She stated Falls Township charges \$40 and Newtown charges \$35.

Mr. Lewis asked how many of these are done in a year, and Ms. Cecchine stated it varies on the economy. Mr. Lewis asked if the \$35 is approximately the amount of effort in terms of hours, and Ms. Cecchine stated she has to pay the programmer for the software program and the process does take time. She stated she also goes beyond the Certification date and she prints up an Index Report every week and she pulls all the Certifications that have been Recorded. She stated for those that are not Recorded, she calls to find out what is wrong; and there have been instances where it took her two years to get the Title Company to Record a Deed. She stated it can

be time consuming because of the follow-up work she does. Mr. Lewis stated even at \$35 it seems that she may be doing more work than the revenue for that, and Ms. Cecchine stated she wants to be fair. Ms. Cecchine stated some communities charge \$50, Bucks County Water and Sewer charges \$50 for a sale and \$35 for a refinance, and Lower Bucks Municipal charges \$100.

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to approve the Tax Collector's request for an increase of the Tax Certification Fee to \$35 subject to Counsel's review of process and procedure.

#### UPDATE ON QUIET ZONES

Mr. Eisold stated they are in the process of finalizing the PennDOT Permits for the two crossings noting that the Edgewood Road crossing is a State road, and PennDOT Permits are not required. He stated they are required to get a PennDOT Permit for Heacock and Stony Hill. He stated part of that Permit is to meet some administrative issues, and one of the main ones is to have Maintenance Agreements between the Township and PennDOT. He stated PennDOT is indicating that they do not have an issue with the Township constructing these facilities within their roads, but the Township has to take responsibility for them if they need to be repaired moving into the future. Ms. Tyler asked about paving the adjacent pavement; and Mr. Eisold stated it would just be for the structures, and it would not be the pavement of the road surface itself. Mr. Eisold added it would be the facilities that the Township is installing such as signage, curbs, etc. He stated they have provided a draft for these two crossings based on some other Maintenance Agreements they have used in other cases, and he would suggest that the Township solicitor review them and provide comments.

Mr. Eisold stated the other administrative issue relates to an item further on the Agenda which is approval of Resolution No. 2300 which PennDOT is requiring. He stated PennDOT is requiring that the Township be a business partner in their EMS, Electronic Management System, as they are trying to go paperless and have everything done electronically. Mr. Fedorchak stated he feels it is in the Township's best interest to do this, and it would take "forever" to get information from them otherwise. Mr. Eisold stated if the Township is not in the system, it is not always clear what the project is if PennDOT sends e-mails; and if you are in their system you can get more information. Mr. Eisold stated this will help not only with the Quiet Zones, but will effect all the communication with PennDOT.

Mr. Eisold stated they are working with SEPTA and the Multi-Modal PennDOT group to get the Agreements in place with regard to the Grant. He stated once the Grant and the PennDOT Permits are obtained, the next step is to prepare the specifications and Bid documents to go out to Bid and get bids from contractors to complete this work. He stated it should take one to two months to get the Bid documents prepared and typically Municipal Bidding requirements are five to six weeks. He stated the Bid would be accepted, and it would take approximately two to three months to get the work complete.

Mr. Fedorchak stated PennDOT has designated SEPTA to manage the Quiet Zones Grant so at some point they will be looking at an Agreement between the Township and SEPTA.

Mr. Benedetto asked if they feel the project will be done by the end of 2016, and Mr. Eisold stated he feels it could be if everything runs smoothly.

Mr. David White stated he is disappointed since they are now at least a year behind what the original time estimate was. He stated the last time they discussed this, he felt that they would be soliciting Bids now and that by late spring it would be done; and now he is hearing that it could be by the end of the year. Mr. Fedorchak stated PennDOT spent a good deal of time processing the Grant. He stated the Township submitted it on schedule, it was approved, and then it sat there. He stated the next contact he received was in October from one of the Departments within PennDOT first apologizing that it took so long. He stated they explained that the way they wanted to handle the Grant was to run it through SEPTA. Mr. Fedorchak stated he was contacted by several SEPTA officials including their CEO, and they explained that they will be processing it as quickly as they can. He stated he then met with some of their staffers, one of whom will be handling the processing of the Grant administration on the Township's behalf. Mr. Fedorchak stated in the near future he expects to get Contracts and finalize this piece of it. He stated to the best of their ability they have been working concurrently and have done most of the engineering for the Plans. Mr. Fedorchak stated he feels comfortable working with SEPTA as they have been very responsive to the Township since the beginning when they got involved in this.

Mr. White stated he remembers that the Board indicated that Grant or no Grant, they were going to get this done, and he does not see a sense of urgency. Ms. Tyler stated Grant administration is an extremely cumbersome process, and the Township did not have much control over it. She stated she shares Mr. White's frustration, but they are on top of the situation; and while she wanted to see this done by the end of 2015, they were not able to do so and they will continue to press forward to get this done.

Mr. Zachary Rubin stated when this process was first started, the Township sub-contracted out to a consultant firm who specialized in these Quiet Zones; and he asked if they are still on board. Mr. Eisold stated they are working side by side with them. He noted that the PennDOT items are Township efforts, but the consultant is working on other items. Mr. Rubin asked what the consultants are doing now that Mr. Eisold's firm is not doing and asked how they are being paid whether it is an hourly rate or a monthly retainer. Mr. Eisold stated they had an upfront cost of what their fee would be through the whole process, and he feels their work is about 80% complete. He stated they filed a lot of the forms and documents required to establish the Quiet Zones. Mr. Rubin asked if it was not their responsibility to administer the project, and Mr. Eisold stated they were not retained to work with the Grant; and they were retained to do the technical part of going through the process which was very detailed.

Mr. Rubin asked if Boucher & James is billing them hourly, and Mr. Eisold stated they are. Mr. Rubin stated a future Board may look back at 2015/2016 and question the reason why there were high engineering fees, and the reason would be because this project was something the professionals had to deal with; and he feels that this is what happened with the solicitor fees they were previously discussing. Ms. Tyler stated they review the engineering fees every month. Mr. Rubin stated he is not saying that they are not being reviewed or that they are not doing the work, rather he feels that when there are projects that the professionals are working on, they have to pay for those services; and it is not unusual that some years, they would "spike" up when the Board is doing active things such as the Quiet Zones. He stated during the years when the Board does "literally nothing," they have lower professional fees.

Mr. Eisold stated they contacted PennDOT numerous times about the Grant before Mr. Fedorchak finally got the phone call. He stated they had indicated that they could do engineering work, but the Township could definitely not expend any construction funds as that would be in jeopardy of not coming under the Grant if that work was done before the Grant was finalized.

Mr. Matt Bolger, 219 Taylorsville Road, stated the Quiet Zone has been a long, drawn-out process; but he reminded the Board that when they first made the award to BRAAM at least one of the Board members indicated that the Board had stepped up to help those effected by the Quiet Zones and were stepping up to help the residents effected by the Scudder Falls Bridge/I-95 expansion, and he encouraged the Board to bear in mind the amount of money they have spent for this worthy project when they re-visit the Budget and consider an additional award to BRAAM.

Mr. Tim Collins stated the Quiet Zones do not involve monumental construction, and Mr. Eisold stated the actual construction process is less than the approval process. Mr. Collins asked if they could put the Bids out in advance of the Grant, but Mr. Fedorchak stated he feels they need to the Contract Agreements in place before they do that. Mr. Eisold stated the Grant may have some specifications that they are not yet aware of. Ms. Tyler stated the Bidding process is a Statutory process, and you cannot just leave a Bid out open ended; and it must be accepted within a certain timeframe.

POSTPONE CONSIDERATION OF RESOLUTION NO. 2299 ACCEPTING DEDICATION OF CERTAIN PUBLIC IMPROVEMENTS AS CONTAINED IN THE SUBDIVISION KNOWN AS CHANTICLEER, AND FURTHER ESTABLISHING CONDITIONS PRECEDENT TO THE ACCEPTANCE OF DEDICATION OF THOSE IMPROVEMENTS

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to postpone this matter to February 3.

SUPERVISORS REPORTS

Mr. Benedetto stated the Zoning Hearing Board had a meeting regarding the Pennsbury School District project at the Middle School Complex which was Continued. He stated there were discussions about sidewalks, lighting, and traffic; and these items will also be discussed at the Planning Commission. He stated they are making these improvements to improve safety for the students; but there were concerns by residents about additional bus traffic on the road, removal of the sidewalk, and lighting. Mr. Benedetto stated Mr. Koopman did provide a memorandum on this as the Township is participating. Ms. Reiss stated she is concerned because Makefield Road is an artery that her neighborhood (Queens Grant) uses to get to almost everywhere; and currently the amount of traffic in the morning on Makefield Road is considerable, and she is very concerned with there being no sidewalks and the amount of traffic with buses in and out making the traffic pattern worse. Mr. Benedetto stated he wants to make sure the public is aware of the meetings on this issue as they come up.

Mr. Lewis stated Citizens Budget met, and he briefed them on re-opening the Budget.

Ms. Reiss stated the Planning Commission stated they are going to have to elect a different Vice Chair. She stated the Seniors major issue is the Community Center. Ms. Reiss stated she has contacted those for whom she had correct e-mails about Special Events, and she understands that the Special Events Committee would like

to meet in the evening; and she will try to find an evening when they can meet at the Township Building. She stated she hopes that the Chair of Park & Recreation and Ms. Liney can meet with them as well so that they can coordinate efforts especially for Community Pride Day.

Ms. Tyler stated information has been put on the Township Website by the EAC about Styrofoam recycling. She stated the EAC will be using the Township Website as much or more as they have in the past, and they advise the residents of things they can do in the community including information on recycling and the ash borer beetle. Ms. Tyler stated the Historic Architectural Review Board (HARB) which is charged with reviewing and approving development within the Historic areas needs members. Ms. Tyler stated the Township Historic Commission has begun a “keepsake project,” scanning items and doing an inventory of the Township’s history including Deeds, documents, maps, and photographs; and they could use some help on this Board. She stated once the Community Center is built, this could be a place to display a lot of the Township’s heritage. She asked that a letter of interest be sent to Mr. Fedorchak if residents are interested in serving on this Board. Ms. Tyler stated she received information from Lisa Gage about an upcoming Pennsbury High School play, Anything Goes. She stated advance ticket sales will be sold Saturday, January 30 from 10:30 to 11:30, and Tuesday, February, 2 and Wednesday, February 3 from 6:30 p.m. to 8:30 p.m. at the Pennsbury High School East lobby. She stated more information is available at 215-949-6780, Ext. 71686. She asked that Ms. Gage contact the Township if they wish to put something about this on the Township Website.

Mr. Fritchey stated the Park & Recreation Board met and new Officers were elected, and the Sewer Authority will meet next week.

Mr. Benedetto stated the reporter from the Advance advised him that tomorrow night at 7:30 the Morrisville Sewer Authority will hold a meeting at Morrisville Borough Hall, and part of the discussion will be the two options noted previously regarding updating the sewer plant or building a new plant. Mr. Benedetto stated that he will attend that meeting.

#### APPROVAL OF RESOLUTION NO. 2300 AUTHORIZING EXECUTION OF AGREEMENT FOR ELECTRONIC ACCESS TO PENNDOT SYSTEMS

Ms. Tyler stated this is the Resolution that allows the Township to communicate electronically with PennDOT as was discussed earlier this evening.

Mr. Lewis moved, Ms. Tyler seconded and it was unanimously carried to approve Resolution No. 2300.

#### APPROVE INCREASE TO REIMBURSEMENT FOR POLICE OVERTIME

Chief Coluzzi asked the Board to amend the existing Fee Schedule regarding Police hourly overtime reimbursement from \$65 to \$75 an hour. He stated this will cover costs for personnel salary, gas, vehicle, and equipment use. He stated usually when Police Officers serve private companies and concerns, they are reimbursed for the Police services; and \$75 is an average overtime rate that they should be reimbursed.

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to amend and increase the Fee Schedule for Police reimbursement from \$65 to \$75 as outlined by Chief Coluzzi.

#### DISCUSSION OF IMPENDING SNOW STORM

Chief Coluzzi probably around Thursday evening into Friday morning, Emergency Management will be putting out information on ReadyNotify, on Twitter, the Lower Makefield Police Website, the Township Website, and also the Township Channel.

Ms. Reiss asked if there is an Ordinance about cars being left on the road which creates problems with plowing. Chief Coluzzi stated when an emergency is declared in the Township, they can order people to move their vehicles off the roadway. He stated if this occurs when they are not home, this is a different story; but they do ask for the citizens to cooperate moving all their vehicles off the street. He stated when a State of Emergency is called by the State and adopted by the Township, then there are certain road and travel restrictions in effect.

Ms. Tyler stated those who are not signed up for ReadyNotify should do so, and residents should also follow the Police Department on Twitter at lmtpd. She stated Lower Makefield Government also has a Twitter account. She stated ReadyNotify is great for a lot of reasons other than snow as well.

#### UPDATE ON REVERE ROAD TENNIS COURTS

Mr. Fedorchak stated he previously reported that after negotiating for some time, Toll Bros. agreed to give the Township \$40,000 toward the rehabilitation of the tennis courts. He stated he discussed this with the Park & Rec staff to find out if the Township did this in house, could they bring the project in at around \$40,000; and they indicated they could. He stated Park & Rec indicated that they could rehabilitate two courts, clean up everything else, and put in a new fence for \$40,000. He stated he understands that this will go before the Park & Rec Board soon, and they will then come to the Board of Supervisors with an advisory opinion.

Mr. Benedetto asked if the residents will be notified when it goes before the Park & Recreation Board; and Mr. Fedorchak stated this is his understanding. He stated they are certain that they can rehabilitate two courts for the \$40,000.

Ms. Tyler asked if they were going to do additional core drills. Ms. Eisold stated it was obvious that the one end of the one court was directly effected, and the second court was barely effected by the trash. He stated they did dig in all directions where they found the trash to find the limits. He stated the disrepair of the courts further away are really crack oriented and not settlement issues. He stated it was the settlement issues that were caused by the trash.

#### APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Benedetto noted that Megan Dorko sent a letter dated January 8, 2016 notifying the Board that she wished to continue her service on the Disabled Persons Advisory Board.

Mr. Lewis moved, Ms. Tyler seconded and it was unanimously carried to re-appoint Megan Dorko to the Disabled Persons Advisory Board.

Mr. Benedetto stated they had a number of interviews this evening.

Mr. Fritchey moved, Ms. Reiss seconded and it was unanimously carried to appoint Gregory Hucklebridge to the Sewer Authority.

Ms. Reiss moved, Mr. Lewis seconded and it was unanimously carried to appoint Douglas Krauss to the Park & Recreation Board.

Ms. Reiss moved and Mr. Lewis seconded to appoint Chad Wallace to the Planning Commission.

Ms. Tyler stated she felt they had already appointed Mr. Wallace to the Park & Recreation Board. Mr. Benedetto stated at a previous meeting they had made some Appointments, but there were individuals still in place on those Boards; and at the last meeting they had approved a Motion to vacate three Appointments one of which Mr. Wallace.

Motion carried unanimously to appoint Chad Wallace to the Planning Commission.

Mr. Benedetto stated he wants to hold off on some other Appointments until there is Counsel in place. He stated Mr. Tom E. Will had come before the Board and there was a similar situation to what he just described about the prior Appointments. He stated he would like specific legal advice on this to make sure they are getting the process right. Mr. Benedetto stated Mr. Will indicated he had an interest in both Sewer and Citizens Budget, but he feels they should hold off on an Appointment until February 3.

Ms. Tyler stated the Sewer Authority meetings are public meetings, and they could encourage Mr. Will to attend those meetings if he wishes to do so.

There being no further business, Mr. Lewis moved, Ms. Reiss seconded and it was unanimously carried to adjourn the meeting at 11:05 p.m.

Respectfully Submitted,

Kristen Tyler, Secretary