

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – JUNE 15, 2016

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on June 15, 2016. Chairman Benedetto called the meeting to order at 7:40 p.m. and called the Roll.

Those present:

Board of Supervisors: Jeff Benedetto, Chairman
 Kristin Tyler, Secretary
 Judi Reiss, Treasurer
 David Fritchey, Supervisor

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

Absent: John B. Lewis, Board of Supervisors Vice Chair

PUBLIC COMMENT

Mr. Zachary Rubin, 1661 Covington Road, Chairman of the Electronic Media Advisory Commission, stated there was an article in the Bucks County Courier Times that Upper Makefield passed a Motion to buy into the Bucks County Consortium to negotiate with Verizon. Mr. Fedorchak stated this will be on the next Agenda of the Board of Supervisors. Mr. Rubin stated this November will be the tenth year of the twelve-year Agreement with Verizon; and according to the Franchise Agreement, they have to be 100% built out in the Township, and they have until November, 2016 to reach every resident who wants to sign up.

Mr. Tom Conoscenti, Ginko Lane, asked for an update on the Patterson Farm. Mr. Truelove stated with regard to the Sunflower Farm Appeal, it is the sense of the Board to continue with Mr. Garton representing the Township because of his familiarity with the case. Mr. Truelove stated it is also their sense that Ms. Kirk from his office who was formerly the Zoning Hearing Board Solicitor, remain on behalf of the Zoning Hearing Board. He stated at the Zoning Hearing Board meeting last week on June 7 the Board indicated unanimously that they would like Ms. Kirk to represent their interests. He stated going forward Mr. Garton and Ms. Kirk will be entering their appearances on behalf of the Township and the Zoning Hearing Board.

Mr. Truelove stated the Appellant's Brief always goes first. He stated the responsibilities of Mr. Garton and Ms. Kirk will be to defend the Judge's Decision and in turn the Zoning Hearing Board.

Mr. Conoscenti stated their group is interested in the progress of this, and four of the families have Party Status. Mr. Truelove stated he and Ms. VanLuvanee did have a discussion about this a few weeks ago, and he will make sure to advise him who to coordinate with going forward.

Mr. Benedetto stated with regard to the Patterson Farm Deed Restriction, the Township has contacted Ms. Bush; and hopefully she will be attending their meeting on July 6 or the second meeting in July if the Board has one.

APPROVAL OF MINUTES

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to approve the Minutes of June 1, 2016 as written.

APPROVAL OF JUNE 6, 2016 WARRANT LIST AND MAY, 2016 PAYROLL

Ms. Reiss moved, Ms. Tyler seconded and it was unanimously carried to approve the June 6, 2016 Warrant List and May, 2016 Payroll as attached to the Minutes.

DISCUSSION OF EDGEWOOD VILLAGE MASTER PLAN AND THE TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ORDINANCE

Mr. Carter VanDyke was present who stated he is present at the request of Mr. Fedorchak who asked that he come in to discuss with the Board the background of the TND Ordinance. Mr. VanDyke stated the Historic District was initiated as a National Historic District in 1981, and there is now a Historic Architectural Review Board administering it. Mr. VanDyke stated what makes it unique is that it is a rural Village but limited in terms of its resources as it does not have a lot of buildings that date back to that period. Mr. VanDyke stated in working with the Historic Architectural Review Board, the issue came up that they could not afford to lose any units or they could lose the historic designation. He stated they also obtained Certified Local Government status and National Historic Landmark District status.

Mr. VanDyke stated Guidelines for Historic Landmarks were approved in 1999. He stated in 2000 March Associates did an overall report for the future planning of the Village. He stated he was hired as a follow up to develop the Design Guidelines

to assist the Historic Architectural Review Board on how to review Plans when they come in. He stated from that in 2004 they developed an updated Master Plan which led to Zoning Ordinance Amendments and some Street Design Guidelines which were incorporated in the Subdivision and Land Development Ordinance in 2005.

Mr. VanDyke showed a slide of the outline of the Historic District and the surrounding area.

Mr. Fritchey asked what is Edgewood Village, and he asked if this is an attempt to re-create a 19th Century Village or a 21st Century Village. He asked what they are trying to do and what do they have now. Mr. VanDyke stated they wanted to create a walkable downtown that would be a Town Center for Lower Makefield. He stated it was to be a mixed use but at the same time capitalize on the assets that they have and develop a Village with infill development that matched the character of the houses that were there. Mr. Fritchey asked if there was ever a Village there or was it a cross roads, and Mr. VanDyke stated there was a Village. He stated it was a mixed use with shops and residences. He stated it goes back one hundred years, and it was a rural Village. Mr. Fritchey asked if they do not have to have a population density in order to have a viable Village today since he feels if there are not people living there in fairly close proximity to one another, all you have is a collection of houses at a crossroads. He stated when he thinks of Villages, he feels there would have been uses that would require workers; and you would then get the kind of population density that you would need to have in order to have a cohesive Village and then Commercial development to provide goods and services for the people who live in the Village and work there. He stated he does not see that foundation here, and it appears that they are trying to create a Village into what is now a Suburban community that predominates with single-family residences on half and whole acre lots.

Mr. VanDyke stated there is a lot of infrastructure which was lost that provided the employment base including Flowers Field where there were greenhouses as well as other farm related industries in the area. He stated many of the buildings that are there were actually viable businesses at one time. He stated this Village is part of the Township's history since when Lower Makefield was only farms, this was the center. He stated there were also working industries in the heart of the Village that supported the farm industry in the surrounding area. Mr. Fritchey stated it was therefore a farming Village, and he asked the number of people who lived there; however, Mr. VanDyke did not have that figure and suggested Mr. Marshall from the Heritage Conservancy would probably have this information. Mr. Fritchey asked if this is all gone; and Mr. VanDyke stated the infrastructure is there, but the businesses are gone because the community has changed. Mr. Fritchey asked Mr. VanDyke if he feels those businesses could be recreated; and Mr. VanDyke stated they could not because it is no longer that kind of a farming community anymore.

Mr. VanDyke stated when you talk about a Historic District, you are talking about adaptive re-use to meet current standards so that you would maintain the fabric of the Historic District. He stated that is what the Historic Guidelines have done and the HARB worked diligently to try to do this so that when all the infill is put in between the existing pieces, they will have a high density, mixed use Village with residences and businesses there.

Ms. Reiss stated she is concerned about getting Retail establishments here. She stated the best example of this she has seen is in Robbinsville, New Jersey where they have condos and below them they have restaurants and stores; although most of the people come from somewhere else to do the Retail and those who live there leave in the morning and go to work. She stated she is well aware of all that was lost here. She stated this is a bedroom community, and very few people actually work here which is an issue we need to work on. She stated she is concerned how they will get what they really want from Edgewood Village.

Mr. VanDyke stated the largest development is Flowers Field, and on the perimeter of that they planned to have Retail on the first floor and apartments on the second floor. He showed an example of what has been done in other areas with Retail on the first floor and residences on the second floor. He stated they are trying to create a sense of place which they do not have now.

Mr. Fritchey asked if Mr. VanDyke thinks there is a reason why this has not happened in thirty-five years; and Mr. VanDyke stated the planning did not really start until 2000 and was not completed until 2006, and then there was a waiting period until they got the sewers and then there was the Recession. He stated he feels the steps that are happening now are filling in, but it is a slow process.

Mr. Benedetto stated he feels there are competing policies between historic preservation and making this a Commercial hub. He stated currently there is no hub there, and he feels they should consider how they should move forward. He stated he does not feel there is enough motivation to move forward because they constantly have one foot stuck in the past.

Mr. VanDyke stated one person is controlling the speed of the way things are going so it is very hard to get things done in a timely fashion. He stated this individual has built out some of the infrastructure including some of the mixed-use Retail, but he has decided not to build it all out until the housing is complete. Mr. Benedetto stated some of the reason in not being able to do something is due to the economy.

Mr. Benedetto stated going back to 1999 there was a Plan, but it was not implemented. Mr. VanDyke stated he feels about 60% of it has been implemented since they now have the sewers and the stormwater management in place which had previously held up the progress as well which were beyond the control of the Township.

Mr. Benedetto asked Mr. VanDyke what his vision is of what should be there currently. He also asked about the traffic problems in the area. Mr. VanDyke stated he is very satisfied with what has happened recently and he was very happy to see that DeLuca was constructing homes there. He stated he feels those homes may be too expensive and are a little larger than they should be since the people who he feels want to move there are people from the community who want to downsize. Ms. Reiss stated they also want a master bedroom on the first floor. Mr. Fritchey stated he has been told that these units are selling for \$500,000 for a townhouse, and he does not feel this seems like a Village.

Mr. Fritchey stated he is not against historic preservation as he has been a member of the National Trust for Historic Preservation for forty years, previously lived in a historic home, and has affection for historical buildings and historical architecture; but he feels that this concept has moved forward almost in spite of rather than because of whatever historic assets there are in the Village. He stated he feels the big draw in the area is McCaffrey's, Giant, and the other stores in the strip development. He stated Flowers Fields does not seem to be getting the population density that he would associate with a true Village, and he does not see people walking to any of these places as people drive to McCaffrey's and park their car there. He stated they are not that far from Makefield Glen, and he does not feel many people from there walk to McCaffrey's. Mr. Fritchey stated he wonders if they are trying to force something too hard that is not entirely natural, and that what they have effectively built is a late 20th/early 21st Century small Commercial District.

Ms. Reiss stated her concern is that most Villages historically have restaurants which were usually taverns as well as small Retail shops which stay open past 6:00 p.m. so that people having dinner can walk around and shop afterwards, and we do not have that here. Ms. Reiss stated we are not friendly for restaurants other than pizza parlors, etc. to come in because we do not allow what a tavern or a better restaurant needs to survive. Ms. Reiss stated we also do not have a lot of small stores here. She stated Newtown has been able to attract small businesses, and Lower Makefield is not good at that. Ms. Reiss stated empty nesters who want to stay in the area want to have a first floor master. She noted Flowers Field did not have that, is prohibitively expensive, has no amenities, and is on top of I-95. She stated the problem is the proximity to I-95 which is going to be widened, and putting up big walls is not conducive to the look of a Village. Ms. Reiss stated she

also desperately wants to save the historic properties and repurposed like they were, but she is not sure that the Township is ready to be friendly to bringing the right people in for this.

Mr. VanDyke stated they had this discussion with the Board eight years ago about developing a framework to make it friendly, and the Board made some promises at that time that they tried to initiate since that is a keystone element in trying to get shops and create the downtown. He stated what draws people and creates value is walkability and mixed use, and they need this in order to command higher prices. Mr. VanDyke stated at this point only the framework is there, but it has to be built. He stated one of the things the Board can do to help initiate the types of shops and restaurants they need and want in the community is to allow for Liquor Licenses within the Historic District; and it would not have to be allowed throughout the Township, and it could be only for this one area. Ms. Reiss stated she agrees that they need to have restaurants that are allowed to serve liquor since they will get a higher-quality restaurant. Mr. VanDyke stated this would change the whole character of the Village as it would be a place for people to meet their neighbors and socialize. Ms. Reiss stated she agrees since she sees most of Lower Makefield residents going to Yardley Borough for what should be available in Lower Makefield; however, she stated this is not something the Board can decide to do unfortunately.

Ms. Tyler stated although it does seem like they are trying to back into a Village, she feels it is largely there. She discussed what is already in the area and stated there is some walkability already. She stated they also have the sewers and the stormwater management. She stated Patterson Farm is also right in the area. She stated Edgewood Village is not Township-owned property, and there is a single landowner who is moving along as the economy permits him to do so. She stated she does feel that landowner has a vision, and they are very close. She stated she feels it is worthwhile to press on and make it part of the unique identity of Lower Makefield which is suburban but also farmland which is a unique situation.

Ms. Tyler asked Mr. VanDyke to explain the significance of the historic designation and being on the National Register. Mr. VanDyke stated it means that they are preserving part of their history and that the infrastructure, the improvements, and the buildings that are in the District have to maintain the character of time and place of when they were created. He stated this creates a lasting value that the Township does not have anywhere else. He stated there are a number of things they do not have for which the Township can obtain Grants. He stated they do not have a complete walking path. He stated they also need to have inviting walking paths with street trees, good sidewalks, and crosswalks that feel safe. He stated they also need

sidewalks that lead into adjoining neighborhoods. He stated in a Borough situation such as Doylestown or Newtown, people will walk ten blocks to go into town; and while Lower Makefield has the residents around there, they have not created the pedestrian-friendly feel rather there is an auto-centric feel. He stated they have some bike trails, etc. but they do not have everything pieced together to create the feeling. He stated a private developer is making the investment to slowly get all the pieces, but there is still no sidewalk because he does not own everything. He stated it is getting the pieces to fit that the Township can get Grants for including street lights and other things that would create a sense of place where people want to be. He stated there should be restaurants, taverns, sidewalks, and cafes where there would be tables and chairs outside which they do not really have in the community. He stated they have the Memorial and the Farmers Market which are terrific assets. He stated there are several things working for the Township, but not all the pieces are fitting together yet.

Mr. Fritchey stated he agrees that the area is auto-centric, because he does not feel anyone walks to the Farmers Market or to anything that is there. He stated it seems that the message is that the private market does not support doing these things yet. Mr. VanDyke stated it is taking time, but they have a developer who is willing to take a leap of faith to make this happen. He stated that developer feels he needs to get the residences in first to support the Retail. Mr. VanDyke stated that developer has already restored the building on the corner which is a restaurant and rehabbed the barn which is a cigar bar. He stated he also built the bank, and all these pieces are fitting together to make a Village; but it does take time.

Mr. Benedetto asked Mr. Phil Worsta, Township traffic engineer, to discuss the traffic in the area. Mr. Benedetto stated he often hears comments from people that when driving down Stony Hill Road they have to wait for three different cycles of the light to be able to make a left-hand turn. Mr. Worsta stated he has been dealing with the establishment of trails and making them viable throughout the Township. He stated they will look at interconnectivity of anything that happens in Edgewood Village from this point on, and they are also looking at trip generation and traffic associated with the development. Mr. Worsta stated traffic calming was always part of the Edgewood Village Plan including street trees, etc. as they want to slow traffic down and make it more attractive.

Mr. Worsta stated the improvements associated with Edgewood Village are focused around a few main intersections one of which is Langhorne-Yardley and Stony Hill Roads which is being widened, and they will provide a left-turn lane off of Stony Hill Road. He stated there is also parking associated with Flowers Field, and parking is supposed to be introduced throughout the whole Village to make it more conducive for people to stop, shop, and walk around. He stated they are in the midst of trying

to handle all of those types of improvements. He stated one issue they have is the speed of traffic, and right now it is a commuter road; and if they are going to change this, there is a lot of work that has to be done from end to end.

Mr. Benedetto stated on-street parking was required as part of Flowers Field but cars are coming over the hill going quickly, and he feels this would be a safety issue. Mr. Worsta stated while the on-street parking was not his idea, his opinion is that to have on-street parking on streets like this it should be done in a cohesive, comprehensive manner; and he does not feel they want to introduce on-street parking as a stand alone for a single development on a State highway. He stated when you build a Village, you need to change the driver's expectation of what is happening. He stated the expectation is that when you go across I-95 on Stony Hill Road, and are coming down toward Flowers Field, you do not expect to have someone stopped trying to back into a parking space. Mr. Worsta stated if they are going to have the Village you have to do something similar to what was done in Newtown on Sycamore and State streets. He stated Newtown Township took back Sycamore from PennDOT so that they could do more on their own which took a lot of time. Mr. Worsta stated the Township has to decide whether they want to have slow traffic, fast traffic, or pedestrian traffic and then do something in a more aggressive manner. He stated while they can put trail ins, the Township needs to use their powers to be able to get the property for the trails. He stated they can get a Grant for the trails, but the Township has to get the land for it and take some of the imitative with regard to this; and this also means that someone's frontage is going to be taken.

Mr. VanDyke stated the Plans for Edgewood Village actually called for traffic calming and creating gateways before you get into the Village. He stated as you go over the bridge there is to be a chicane to slow people down and do just what Mr. Worsta is discussing so that there is an expectation that you are now entering a place, and it is no longer a highway. He stated this is a standard practice, but all the pieces have to fit together. He stated the Plan called for that and suggested Grants to do this, but that step was not done. Mr. VanDyke stated he has not been involved in this for almost five years or he would have pushed the Board to get the Applications for the Grants once Flowers Field was approved. He stated when people do start parking there, there could be safety issues although he does feel they are a few years away from that. Mr. Benedetto stated this is why they brought Mr. VanDyke in. Mr. VanDyke stated they also need the street trees and all the other things that create an ambience so that people realize they are now in a place. He stated they want to make it a transition from a road to a street, and then back to a road; but it takes design details to make that happen.

Ms. Tyler stated she feels they need to have Mr. VanDyke go before the Planning Commission as well. She asked Mr. VanDyke to explain what the TND is and what requirements there are on the part of the Township and what requirements it places on landowners in the Historic District. Mr. VanDyke stated the TND is Traditional Neighborhood design, and they have Design Standards to create a shallow setback with a porch or some kind of infrastructure in front which would create a buffer from the building to the sidewalk. He stated in Edgewood Village they created design standards for a brick sidewalk, street lights, and a shallow rear yard with parking in the rear so that the house has full frontage on the street as opposed to many townhouses which have garages that come in from the front. Mr. VanDyke stated the idea is to create a relationship between the house and the pedestrian street level. He stated one of the reasons they have on-street parking is so that neighbors and guests can park in front and enter the house from the front. He stated the garages are only accessible from the rear from the rear alley which is part of a Traditional Neighborhood design formula.

Ms. Tyler asked about the requirement that the sidewalks be brick, and Mr. VanLuvanee stated he feels the Historic District negotiated for brick; and brick is being built in there now. Ms. Tyler asked if the Board would agree to having Mr. VanDyke come in and give a presentation to the Planning Commission on what the present requirements are in the Historic District to make sure that the Township is following its own guidelines. This was acceptable to the rest of the Board. Ms. Tyler stated there are new members on the Board of Supervisors and the Planning Commission who were not around when some of these ideas were born.

Ms. Reiss stated she feels that part of the problem is that there has not always been a lot of communication to get this moving to some type of fruition.

Mr. VanDyke stated in the past his role was advisor to the Historic Architectural Review Board, and in that capacity he also provided counseling to the Planning Commission; and they made presentations to the Planning Commission. He stated for the last five years since the Recession, all of those services did not happen since there did not appear to be a need. He stated it seems that as of today that need is coming back again, and he is excited to see that since they put a lot of passion into the Village to try to make something happen for the Township. He stated while this is still in its embryotic stages, the beauty is that all the expensive infrastructure items have been built.

Mr. Zachary Rubin stated currently at the intersection of Yardley-Langhorne and Stony Hill there is a café on one side, an insurance agency on another side, a bank on one side, and a vacant building on the other side. He asked how they could put in a left-hand turn lane coming from McCaffrey's and making a left on Yardley-Langhorne Road. Ms. Tyler stated they would have to go into the grass frontage in front of the Bank. Mr. Rubin asked if the Township owns that property, and Mr. Worsta stated it is PennDOT right-of-way. Mr. Worsta stated the developer of Flowers Field will be doing the work, and there is a PennDOT Permit to widen the road on the south side of Stony Hill and it will come across in front of the Edgewood Café where they will shave off a couple of feet of that corner to make the left-turn lane. Mr. Rubin asked Mr. Worsta if he feels it is doable; and Mr. Worsta stated it is clearly doable, the Plans are done, and it is imminent to be built. He stated it is an active construction project although there have been specific issues with regard to utilities which were under the road and storm sewers that were lower than they should have been; and this had caused some concerns with the project. He stated he expects this project to be completed this summer. Mr. Worsta also stated as part of the project, they are connecting the trail at the intersection that goes across the street.

Mr. Rubin noted the location of the proposed DeLorenzo's next to the bank, and he asked how they will deal with the traffic on Yardley-Langhorne Road at this location. Mr. Worsta stated those Plans are still in Land Development review. He stated there will be a driveway on Edgewood and a driveway on Langhorne-Yardley so that traffic should be easily accommodated. Mr. Rubin asked if there will be widening to accommodate the through traffic, and Mr. Worsta stated there will not be as part of the DeLorenzo's piece. Mr. Worsta stated he feels the longer-term issue is the alignment of Edgewood and Langhorne-Yardley Road, and he has been asked to look at that; and they will unveil a Plan shortly associated with that. He stated they then have to determine how they will build it. Mr. Rubin stated if the developer is not willing to give up some property there, does the Township or PennDOT have a right of eminent domain so that they can widen those areas. Mr. Worsta stated while the answer to that is yes, he has not heard anything negative with regard to the developer's offering ground for a road.

Mr. Mike Brady stated his concern with Edgewood Village is that if they are 60% done, of that 60% they are talking about two identical back-to-back shopping centers that are not walkable in between. Ms. Reiss stated those shopping centers were done in 1978-1980 by two different developers who were in competition with each other. She stated they still do not cooperate very well. Mr. Brady noted Suburban Square where there is a main downtown unit and they built more storefronts in the gap, and you can walk between. He stated in Lower Makefield you cannot do that safely. He stated any realistic conversation about the area being a Village would involve leveling the two shopping centers and starting over.

Ms. Reiss stated it was the Board of Supervisors that insisted that they had to be able to at least drive from one to the other since originally they were completely separate.

Mr. Benedetto asked Mr. Fedorchak to have Mr. VanDyke be put on the Agenda of an upcoming Planning Commission meeting as soon as possible. Mr. Benedetto also asked if the power point that Mr. VanDyke has could be put on the Website, and Mr. Fedorchak agreed.

Mr. Dave Kelliher, 591 Aspen Woods Road, stated he feels there should be a discussion about a round about from the traffic engineer because he feels in that area if they want to calm traffic down but still keep it moving, that would be a better solution. Mr. Worsta stated while he is in favor of roundabouts, the issue with roundabouts in a tight area like Edgewood Village is trucks as it has to be very wide. Ms. Tyler also noted this would be true for fire trucks as well. Mr. Worsta stated that would get rid of the historic buildings on the corner. Mr. Worsta stated if they did not want to create a Village environment and you did not care about the historic structures, that might be a good spot for a roundabout since the room would then be there. He stated whenever they do designs for PennDOT, one of the requirements is that they have to look at the viability of a roundabout at any intersection. He stated if he ever feels there is an opportunity to introduce this in Lower Makefield, he would bring it up to the Supervisors.

Mr. Kelliher asked if they could design a truck route to come in at another direction; and while Mr. Worsta stated they probably could, that would alter traffic and move the truck traffic to a different spot in the Township. Mr. Kelliher stated he is just wondering how much more they are going to slow traffic down by some of the traffic calming and pedestrian walkways since it seems they are slowing traffic down even more and backing it up even further than what they have now. Mr. Worsta stated the traffic signal is not finished there, and the left-turn lane is going to help tremendously with regard to the timing of the intersection. He also stated that the traffic calming has to start to occur as you are coming over the bridge from 95 as it is too late to start it at the intersection. He stated they do want them to get through the light, but they also want them to go slower through the Village.

Ms. Tyler stated she would also like Mr. VanDyke to make a presentation before HARB. Mr. Fedorchak suggested that they ask HARB to attend the Planning Commission meeting when Mr. VanDyke makes his presentation. Ms. Tyler stated the Historic Commission would also be welcome.

Mr. VanDyke stated he is excited to see the progress that is being made, and he commended the Board of Supervisors for their decisions about this.

Mr. Edward Murphy, attorney, was present; and Mr. Fritchey asked him assuming Flowers Field is built out and occupied, how much additional population they would expect. Mr. Murphy stated he assumes it would be one hundred fifty to two hundred people. Ms. Reiss asked if he expects there will be children, and Mr. Murphy stated he expects there will be very few. Ms. Reiss stated Makefield Glen has a lot of children.

Mr. Murphy stated he was listening to the presentation and he felt there were some on the Board who felt that the two developers there were deliberately not moving forward with the project and stalling completion of the project. Mr. Murphy stated they all need to understand that in today's world of lending and banking, they are not their own masters. He stated he knows that both the Troilo family and the DeLucas have borrowed millions of dollars to do what they are doing so far, and the construction loans all have covenants in them that have certain requirements before additional funds are lent. He stated in both cases, those covenants deal with signing up Leases and/or Agreements of Sale for the Residential units. He stated the reason they are not seeing more activity out there is because there is not sufficient activity on the leasing end for the non-Residential or Sale Agreements on the Residential side to permit the lender to advance the next stage of construction financing. He stated he knows for certain that both the DeLucas and the Troilos are anxious, as are their lenders, to move this forward.

Mr. Fritchey stated what Mr. Murphy is saying is that the market demand is not what their clients would hope for, and they would like to see that pick up; however, at this point the market verdict on this concept is tepid, and Mr. Murphy agreed. Mr. Murphy stated they discussed at prior meetings that it is almost a chicken and egg situation since the retailers that have expressed interest and continue to express interest would like to see more feet on the street and potential occupants of the Residential units; and conversely, those looking at the Residential units who think they like that potential lifestyle would like to know the identity of the Retailers that they are going to be living nearby to. Mr. Fritchey stated in terms of in-fill he does not hear anyone suggesting that they want to build separate single-family residences, and Mr. Murphy agreed.

Mr. Murphy stated he agrees with what Mr. VanDyke stated in terms of what happened in 2008/2009, and this is still reverberating today; and the market is not as strong as everyone was expecting. Mr. Murphy stated he feels the market will tell the DeLucas what kind of units they will build and sell, and they are already seeing that since some of the new units they are proposing are smaller than the initial units that they built.. He stated he feels once there is more of a critical mass of Residential units sold, you will then see the opportunity for Retail leasing for the shops around the perimeter. Mr. Murphy stated he gets calls twice a week from people saying they would love to be in Edgewood Village asking how many sales there are on the

Residential side. He stated those who are calling are the types of small business retailers that he feels the Township wants to attract. He stated what is happening is not because of a lack of financial courage or commitment by the developer as they have already made that, and the lenders ask every day how things are going since they care what is happening. Mr. Murphy stated he feels Mr. Benedetto knows this as he has had some conversations directly with Mr. Troilo, and Mr. Benedetto has been an advocate about what they can do to energize the area. Mr. Murphy stated while it is a struggle, it is not for lack of desire that they cannot complete the project.

ARTIS SENIOR LIVING LLC REVISED SKETCH PLAN PRESENTATION

Mr. Edward Murphy, attorney, was present with Mr. Joel DellaCarpini, engineer, Mr. Murphy stated he was before the Board six weeks ago, and many of the Board members had concerns about the project which he was surprised about since he felt that given the nature of the parcel and its location, a use like this would be welcomed. He stated in response to some of the concerns, they have re-oriented the building. He stated previously they had a single point of ingress/egress on Stony Hill; and they met with Mr. Worsta who preferred an original concept, that he does not believe the Board of Supervisors had seen, that had multiple entrances and exits which is what the current Plan shows. Mr. Murphy stated they have also eliminated the need for a rear yard Variance, a front yard Variance, and one of the side yard Variances. He stated they have also reduced the extent of the Variance that they seek for the other side yard along I-95.

Mr. DellaCarpini showed on the Plan the one corner of the building that previously was within 25' of the right-of-way I-95 which is now 45' away. Mr. Murphy stated what they are now showing is that they are 111' or more feet away from the edge of the shoulder of I-95, and in between this property and that shoulder is the existing vegetation which they will not touch. Mr. Murphy stated they have also reduced the extent of the impervious surface, and they are down to 20% with the limit being 17%. Mr. Murphy stated this Plan now contemplates a 3% relief for impervious and some relief on the I-95 side of the building.

Mr. Murphy stated he contacted Cam Troilo, Vince DeLuca, and Jim McCaffrey, who owns the day care center across the street as well as Mr. Sam Amico who will be a future resident of the Village; and everyone felt that this use was compatible with their own Village uses, and they could not imagine why the Board would not support a use like this on this oddly-configured property in the location where it is. Mr. Murphy stated they also talked to Mr. Worsta at the Board's suggestion not only about the entrance and exit, but also about what traffic impact, if any, a project like this would have; and he stated Mr. Worsta can speak to the Board about this if he so chooses.

Mr. DellaCarpini showed a Plan where they superimposed the Edgewood Village Plan next to their proposed Plan. Mr. Murphy stated on this Plan you can see where the closest Residential unit is to I-95, which is far closer than the corner of their proposed building to I-95.

Mr. Worsta stated they are proposing seventy-two assisted living units, and the traffic is minimal at thirteen total cars in the morning with nine in and four out and during the evening rush hour there would be eleven in and ten out. He stated he would want to make sure that the frontage and interconnectivity that they talked about complies with whatever the Board decides for the Village such as improvements associated with the access for traffic calming, street trees, trails, etc.

Mr. Benedetto asked Mr. Murphy to speak to the financial impact to the Township; and Mr. Murphy stated they generated a Fiscal Impact Study, and there would be a net positive impact of over \$100,000 to the School District and Township although the School District receives the bulk of the tax revenue. He stated this use would be financially better to the Township than a by-right single family development of two to three homes. Mr. Murphy agreed to provide a copy of the Study to the Board. He noted this includes the Real Estate and Transfer Taxes, but does not include the development fees such as Traffic Impact and Park & Rec.

Ms. Tyler asked what Variances are still needed. Mr. Murphy stated they need a side yard Variance for the one corner of the building closest to I-95, a 3% relief on impervious, and the woodland disturbance which has not changed since the small wooded area is unavoidable. Mr. Murphy stated the Ordinance requires that they preserve 70% of the wooded area, and they are disturbing all but a small portion of it; however, of the five and a half acres, the wooded area is only one quarter of an acre. Ms. Tyler asked about parking, and Mr. Murphy stated they will comply with the parking requirements.

Ms. Reiss stated she is in favor of the two entrance/exits. She asked if there will be a sound wall in this area; and Mr. Murphy stated according to what he read in the paper, he does not feel there will be one in this area. Ms. Reiss stated she knows that the sound wall will be going up where Flowers Fields is; however, others present disagreed.

Ms. Tyler asked if they are in the Historic District, and Mr. Murphy stated they are outside of the Historic District.

Mr. Benedetto stated this is an oddly-shaped parcel with somewhat limited development ability, and he appreciates that they have come back and addressed the Board's concerns. He stated he would be in favor of moving it forward as they have been very responsive which he appreciates.

Mr. Fritchey stated he shares Mr. Benedetto's view, and he feels that this Plan is a lot more acceptable.

Ms. Tyler asked if the Plan contemplates a sidewalk from there into the Village, and Mr. Murphy stated they are proposing to connect a sidewalk along their entire frontage to connect to Flowers Field, although there is one outparcel where they need right-of-way. Mr. Murphy stated as they indicated with the DeLorenzo's project, if there is a right-of-way they need that they cannot get, if the Township wants to get it, the developer will do the work. Ms. Tyler asked if there are interior walkways contemplated that will allow the residents to go outside and then connect to the sidewalk. Mr. DellaCarpini stated Artis is an Alzheimer's facility so that while there is significant outdoor space in terms of memory gardens and walkways within the fenced-in area of the property, there will not be an open connection for the residents to connect out to the street as that would be a safety issue. He stated visitors and workers would be able to utilize the sidewalk.

Ms. Tyler asked what the building will look like and asked if it will be harmonious with the Village. Mr. DellaCarpini stated it is a one-story building with a peaked roof with the total roof height being 17'. Mr. Murphy provided pictures this evening. Ms. Tyler stated it appears to be a stone façade with some incorporated brick and some siding.

Mr. Zachary Rubin stated he lives close to the Sunrise facility, and they have been very good neighbors. He stated during certain holidays there are a lot of visitors there, and he asked where the overflow parking would go for this proposed facility since those visiting Sunrise often park on Stony Hill Road. Ms. Tyler stated she assumes they would park across the street at the day care center as that would be empty on Saturday and Sunday, although that is private property. Mr. Murphy stated they have forty-six spaces shown on the Plan. He stated they could speak to Mr. McCaffrey who owns the day care; and since Mr. McCaffrey supports the project, he feels he would be in support of them using that parking if it was important. Mr. Murphy stated he does not believe there is any on-street parking proposed on Stony Hill this far up, and Mr. Worsta agreed. Mr. Benedetto stated they could use the parking at Flowers Field and use the connecting sidewalk, and Mr. Murphy agreed.

Ms. Tyler asked how close is the leftmost exit to the traffic coming down Stony Hill, and Mr. Worsta stated that will be a right in/right out entry/exit; and drivers will have to get into the right-turn lane to pull into the driveway. Mr. Murphy showed the "pork chop" on the Plan. Ms. Tyler asked about the sight distance, and she asked if this is an opportunity for traffic calming that will feed into the Village. Mr. Worsta stated they need to have sight distance to be able to make a right out at the first driveway; and if they do not, they will not be able to get a right out. He stated the right out is not really that important at that location, but this would be determined

through the design process and with PennDOT. Mr. Worsta stated with regard to traffic calming, if the Township knew what they wanted for the Village, they could have them try to incorporate some of that as part of their PennDOT Permit. He stated they could have a landscaped median, street trees, high visibility pavements markings, etc. that would start the traffic calming. He stated they need to pay attention to this because it will be the gateway into the Village coming over I-95, and they will work with the developer on this. Ms. Tyler stated she feels this is an opportunity to begin to slow the traffic down, and Mr. Worsta agreed. Mr. Murphy stated it would make sense to start to delineate the Village as you come over I-95; and if that means some of the improvements that Mr. Worsta just mentioned such as landscaped islands or trees to differentiate the bridge from coming into the Village, they all should cooperate.

Mr. Benedetto asked if there were not some parking spaces in reserve on the prior Plan; and Mr. Murphy stated while there were, the Board had previously expressed reservation that they should all be put in since they felt there would be more visitation than what the “real world” would suggest, so they have shown all the required spaces. Mr. Murphy noted that this facility will be all memory care as opposed to Sunrise which is a combination of assisted living and memory care. Ms. Reiss stated there are also groups that meet at Sunrise which brings in a lot more traffic than would normally be there.

Mr. Murphy stated he will put together a Zoning Hearing Board Application to seek the relief he disclosed, and then will then come back with the Land Development Plan so there will be multiple opportunities to re-visit these issues. Mr. Murphy stated they will also work with Mr. Worsta as they go along on the frontage improvements.

Mr. Benedetto stated they were very responsive and listened to what the Board had to say; and Mr. Murphy stated he agrees that this is a better Plan than what they showed six weeks ago, and he appreciates the feedback.

CONSIDERATION OF ORDINANCE NO. 400 TO AMEND THE ZONING ORDINANCE TO PERMIT MULTI-FAMILY USE IN THE OFFICE RESEARCH (O/R) DISTRICT AS A CONDITIONAL USE

Mr. Edward Murphy, attorney, was present with Mr. Bob Dwyer.

Mr. Truelove stated they are opening the Record this evening and commencing the Hearing; and he understands from talking to Mr. Murphy and some Board members that the bulk of the discussion will actually take place on July 6.

Mr. Murphy stated when they were previously before the Board they talked to the Township solicitor about the time constraints in order to permit the Planning Commission the opportunity to comment and to have proper advertising. He stated tonight was merely the opportunity to open the Hearing because it was advertised for tonight. He stated although they will Continue it to July 6, Mr. Dwyer is present this evening if the Board wishes to ask him any questions; and if not, they could just re-convene on July 6.

Mr. Murphy marked as Exhibit T-1 the Notice of Advertisement of the Amendment. Exhibit T-2 is the Ordinance that is proposed to be amended. Exhibit T-3 is the Bucks County Planning Commission memorandum. Exhibit T-4 is the summary of the Planning Commission meeting from Mr. Ware which Mr. Murphy had not previously seen, but will be provided to him this evening by Mr. Truelove.

Mr. Murphy stated the Plan being presented is a Concept Plan, and the purpose of that was to show what might qualify if this Amendment were passed. He stated the approval would not be for this particular Plan per se, and Mr. Murphy agreed.

Ms. Tyler asked Mr. Murphy to summarize what they are seeking to Amend in the Ordinance. Mr. Murphy stated the Text Amendment as presented would propose to add as a Conditional Use in the O/R (Office/Research) District a proposed additional use for multi-family housing. He stated they propose that the opportunity to apply for that Conditional Use for multi-family housing would require that the property be located within 2,500 linear feet from the edge of the limits of Edgewood Village so that it would continue the walkability theme that Mr. VanDyke discussed earlier this evening.

Ms. Tyler asked how far the 2,500' circle reaches. Ms. Reiss stated part of the Planning Commission's issue was that the 2,500' is very specific to this parcel. Ms. Tyler asked if that suggestion leads to a supportable argument of spot zoning. Mr. Truelove stated Mr. Murphy's office has presented a memo to his office indicating that it did not. Mr. Truelove stated this proposal expands the different options as opposed to saying this is all you can do. Mr. Murphy stated their proposal is adding a use, and does not delete any existing uses.

Mr. Dwyer showed an exhibit which showed the distance going out 2,500' from Edgewood Village which touches their property and some other properties in the O/R, and any of the properties within the circle in the O/R Zone would have the ability to do what they are proposing. He stated one of these properties includes the Lower Makefield Corporate Center, but the chances of that being demolished at this point is very remote. He stated AIG is trying to repurpose the building with B and C tenants to fill the building, although they are hoping to keep it a Class A Building.

Mr. Dwyer stated the Planning Commission had suggested that they try to convert some of the first floor to Retail; however, Mr. Dwyer had indicated that he would prefer to see Retail in the Village as opposed to pulling it outside the Village.

Ms. Tyler asked Mr. Dwyer if he knows the present occupancy rate of the Lower Makefield Corporate Center; and Mr. Dwyer stated he gets the readings every quarter, and currently it is over 30% vacant. He stated it was over 50%; but the tenants brought in recently reduced its value because an office building is valued by the income production that is achieved. He stated AIG strongly supports doing something with the Capstone property because they believe it will help them attract and maintain tenants.

Ms. Tyler asked where the Aria property is located on the Exhibit Mr. Dwyer had presented showing the 2500' from Edgewood Village, and Mr. Dwyer showed the location which he feels is approximately another 2,000 feet away.

Ms. Reiss stated only a very small corner of the Capstone property is within the 2,500'. She stated she does not feel most people from that area will walk a half mile over I-95 to do their shopping and then walk back. Mr. Dwyer stated he feels that if it is a safe, interesting walk, people will walk there. Ms. Reiss stated they have to walk over I-95, and Mr. Dwyer stated that is only a short portion of the walk.

Mr. Benedetto stated there was discussion at the Planning Commission about the potential of a future developer such as Aria or Shady Brook who might ask for a Variance to the 2,500 feet; and that there is a big difference between a Conditional Use Variance and a dimensional Variance. Mr. Benedetto stated the fear is that if they change the Ordinance, certain areas that are outside of the 2,500' could apply for a dimensional Variance. Ms. Tyler stated this would be an option for any other O/R property seeking similar relief. Mr. Dwyer stated a Zoning Hearing Board is required to insist on hardship. Mr. Truelove stated the Condition Use process goes to the Board of Supervisors and not the Zoning Hearing Board. Mr. Dwyer stated anyone can petition for a Variance for anything, but he feels the request should be before the Governing body which is the Board of Supervisors.

Ms. Reiss stated the Planning Commission indicated that this property is an "island" bordered by Stony Hill and I-95. She stated if they are going to consider Edgewood Village as a Village, this property requires you to go over an Interstate so they have lost the whole idea that is part of the Village because it is not. She stated she could see changing it from O/R to Commercial, especially Retail. She stated by doing this Ordinance to make it multi-family, they are opening "Pandora's Box." She stated Lower Makefield Corporate Center is thirty years old so in ten to fifteen years they may decide they want to convert it to apartments since it is within the area. She stated she would not put this past AIG because they are there to make a profit and get out of this any way that they possibly can.

Mr. Murphy stated in response to Ms. Tyler's question, if someone were to suggest for the Aria site that they should be able to get a dimensional Variance because they were 5,000' away instead of 2,500' he does not feel that would be considered a dimensional Variance. He stated a dimensional Variance is if there is a 50' side yard requirement, and you are requesting 40'. Mr. Dwyer stated the hardship case would still apply whether it was a Use Variance or a dimensional Variance.

Ms. Tyler asked what they are stating is their hardship; and Mr. Murphy stated this is a Conditional Use which is a decision that the Board of Supervisors makes and not the Zoning Hearing Board. He stated if they meet the objective criteria in the Ordinance to qualify for the Conditional Use, then they would get. He stated it is not a Variance or a hardship situation, and that is not what they are proposing. Mr. Dwyer stated they are not trying to usurp the authority of the governing body.

Ms. Tyler stated she is concerned with the density that they are proposing. She stated if they are going to do something outside of the norm, she would want to do it cautiously and do it with restraint. She stated although they did discuss spot zoning, she is concerned that when she looks at the 2,500' it is very clear why that Condition is being put in there; and whether the Courts would call it spot zoning or not, she feels it leads to a good argument for the other properties. She stated she is always worried about unintended consequences. Ms. Tyler stated she plans to look into this further. Mr. Murphy suggested that they consult with Mr. Truelove.

Mr. Dwyer stated they used the 2,500' because it is a walking distance which most planners would accept. Mr. Dwyer stated he feels that this will provide opportunity for the Village. He stated he feels this property is the "hole in the donut" as opposed to an "island" because it is surrounded by Office, Retail, and Residential; and this would be an opportunity to connect the Office and the Village which he feels is a critical step that is necessary to make Edgewood Village work.

Ms. Tyler asked Mr. Truelove and Mr. Murphy if they have ever been involved in a case where someone sought to change something on parallel to allow a use wherein a perimeter is drawn. Mr. Truelove stated he personally has not. Mr. Murphy stated he was involved when the Township created the O/R District and that involved to some degree an arbitrary delineation of the District. He stated anytime you create or modify a Zoning District, you are always to some degree being arbitrary in where you draw the line. He stated this is done all the time. He stated it is also not unusual for Overlay Districts to be proposed in Zoning Ordinances where they are creating a new use. He stated the Township did this in the TND which is an Overlay in Edgewood. He stated he has also done it in other Municipalities where they are encouraging rail transportation including Warminster and Chalfont Borough.

Ms. Reiss stated she remembers the arguments about connecting Township Line Road many years ago, and part of the reason they connected it was to have an Office area which could be on the other side of Township Line Road since they did not want it in the rest of the Township out. Ms. Reiss stated she would be in favor of changing the Ordinance to make the area they are discussing Commercial. She stated she is also concerned about more residences near Shady Brook Farm and possible complaints about noise and lights. Mr. Murphy stated he and Mr. Dwyer spoke to Mr. Fleming as well as Mr. McCaffrey who is concerned about creating another Retail area. Ms. Reiss stated there are certain types of Retail that are not in the Township that would be good ratables. Mr. Murphy stated he would hope that they would find their way to Flowers Field. Ms. Reiss stated she feels the Township population is large enough that it could support a lot more.

Mr. Dwyer stated they would be happy to do Retail, but he presented this Plan with the idea of protecting Edgewood Village which he feels is important. He stated what he has presented is a very typical classification for the apartments they are proposing on fifteen acres, and he noted the project they recently did in New Britain which he has discussed previously. He stated Lower Makefield has very stringent, low density criteria that reduces the density on this project to the point that they would not be able to make it work. He stated they have proven over the past eight to nine years that it will never be developed for Office because of the vacancy rates and inability to get financing. He stated he has provided information about the Residential project in New Britain where the average income of those residents is approximately \$120,000 of household income which is typical of Lower Makefield. He stated the Township has already approved 180,000 square feet of Office which would have far more traffic than the proposed Residential and far more impervious coverage. He stated he also feels his proposal would help the Village and the Corporate Center.

Mr. Zachary Rubin asked Mr. Truelove if this is passed could Aria not go to Court for a Curative Amendment if they wanted to put in multi-family housing and indicate that they were being excluded because they were not 2,500' from Edgewood Village. Mr. Truelove stated he has not looked at that, but he does not feel they would succeed although he could not guarantee that they would not succeed. He stated he believes that because of the way the Amendment is phrased, it adds as opposed to limits what can be in that area, and it does not limit what is already available to Aria as it sits right now. Mr. Rubin stated there are other O/R Districts in the Township, and they would be excluded from putting multi-family units there because of this Conditional Use, and this would only apply to the properties within 2,500'. He asked why they should have this limitation if they are going to go to multi-family housing given that Mr. Dwyer has indicated that O/R is an archaic use.

Mr. Benedetto stated based on multiple conversations he has had with Mr. Dwyer both publically and privately, the draw is for Edgewood Village; and the purpose of the change would be to have synergy with Edgewood Village. Mr. Benedetto stated he agrees with Ms. Reiss and Ms. Tyler that this could get challenged in Court as it relates to spot zoning as others may want to open up their area for multi-family or some other Conditional Use. Mr. Rubin stated while he is not a proponent of having multi-family in O/R he asked why they would not open it up and take out the concentric circle.

Ms. Tyler stated this Application does not just impact the one parcel, and potentially it could impact all the O/R, and the Board should look at it globally as a potential Conditional Use in O/R; and this might actually hurt Mr. Dwyer's Application because of the implications of that. She stated they need to consider if they want to do this on a limited basis which is what they are asking for, or do they have to re-visit the Master Plan and come up with a comprehensive policy decision on how they want to go.

Mr. Benedetto stated he understands that Mr. Dwyer does not want to get into a spot zoning situation because it could then end up in Court, and Mr. Dwyer always wanted to do it in a way that it would not be challenged. Mr. Dwyer stated he feels that Capstone Village is a critical location that would help Edgewood Village and would connect the dots.

Mr. Rubin noted the Prickett property, and Mr. Truelove stated that is a non-conforming use because it existed prior to the O/R Zoning being enacted in that area. Mr. Rubin stated he assumes this Amendment would not apply to that property, and Mr. Truelove agreed it would not as currently written.

Ms. Reiss stated the Amendment as written is only going to impact the property in purple on the Exhibit, and she feels that is troublesome. She stated she does not feel it is the Board's responsibility to deal with people's business decisions or do their marketing for them.

Mr. Benedetto stated they will consider this further at the July 6 meeting, but at some point something has to be done with that parcel since it will not stay the way it is forever.

The Hearing was recessed until July 6.

CONSIDERATION OF BAMBOO ORDINANCE

Mr. Benedetto stated the EAC has been very active in promoting a Bamboo Ordinance, and there are other Townships that have passed them including Yardley Borough and Newtown Township is close to passing one as well. Mr. Benedetto stated the EAC had a public meeting when a number of individuals discussed the impact the running bamboo has had on their property. Mr. Benedetto stated he was previously totally opposed to a Bamboo Ordinance and felt it was something a private homeowner should deal with and either resolve with their neighbor or potentially take them to Court; however, he went to the property of a Township resident who was dealing with this problem for a very long time, and it changed his mind completely after seeing her property.

Ms. Reiss stated she has always understood the problems with bamboo as it is extremely fast growing and a definite problem. She stated she feels that this is something that the Township needs to deal with.

Ms. Tyler stated they had discussed this previously, and she is personally aware of the invasive nature of bamboo as she has dug out over three hundred yards of shoots in her own back yard; and her neighbor has put up a barrier. She stated in the Law there is a remedy available to homeowners as they can go to Court with an invasive trespass argument, and the Court can order remediation. She stated if the Township has an Ordinance, the enforcement would be the important part; and she questions if the Township should undertake the enforcement of this. She asked if they are going to impose fines, go onto someone's property with a backhoe to remove the bamboo, or take them to Court. She stated this will be extremely difficult for the Township to enforce, and the burden should be on the homeowner.

Mr. Benedetto stated other Townships have been able to put in place barrier requirements. Mr. Truelove stated he has looked at approximately eight of the Ordinances which have been enacted, and almost all of them have a notice requirement; and after that if the Township chooses to take it upon themselves to remove the bamboo, it is the violating homeowners responsibility to pay for that, and if they do not pay, there is a lien upon their property. Mr. Truelove stated you could also have a requirement for containers that have certain material to contain the bamboo from spreading. He stated there is still the private right of action as well. Mr. Truelove stated they do need to consider if the Township has the staff available to inspect these properties and to follow through with the notice of enforcements. He agreed that bamboo has become a scourge for a lot of people. He stated it is a balancing act as to how far they want to go.

Ms. Tyler asked if there are there any other Ordinances or enforcement mechanisms that allow the Government to go on private property and excavate bamboo.

Mr. Fedorchak stated the Township forces or a contractor the Township hires would be going onto private property which he does not feel the property owner would welcome, and the Township would be doing so without the benefit of having an Easement to enter the property. He stated he feels there would be substantial digging needed to do the remedial action necessary, and the Township may be subject to a lawsuit if the property owner feels the Township damaged other parts of their property.

Ms. Reiss stated there is currently an Ordinance about the height of grass, and she asked what is done now if the property owner does not cut the grass. She stated many years ago there was an empty lot next to her home; and when she or her neighbors would call the Township about the height of the grass, the Township would mow the grass and send the property owner the bill. Mr. Truelove stated the Township does have a Property Maintenance Code which is enforced by the Township, and the challenge is having the staff available to do this. He stated from time to time he has appeared before Judge Burns on such cases, and usually they dealt with homes that were abandoned; and you had to make sure you provided notice to the bank or other institution. Ms. Tyler asked if the Property Maintenance Code would allow the Township to enter a privately-owned property to do remediation. Mr. Truelove stated they have to provide Notice of Violation, but he is not aware a Township crew was sent out onto any property.

Mr. Fritchey stated other Municipalities have enacted these Bamboo Ordinances, and he asked what is their experience enforcing the Ordinances. Mr. Truelove stated he could contact the Solicitors for these other Municipalities about that.

Ms. Reiss stated she feels the Ordinance would provide “some teeth” for people who would have to go to Court about their neighbor, and Ms. Tyler stated she would not have a problem with that. She stated she is concerned about the enforcement issue. She stated she is also concerned about the bamboo that is currently existing, and she asked if they could require that they cannot have future planting of bamboo. Mr. Truelove stated some of the Ordinances have that language as well.

Mr. Fritchey asked Mr. Truelove is they have an Ordinance against bamboo would that give private litigants a leg up in Court, and Mr. Truelove stated he feels it would. Mr. Truelove stated they could have an Ordinance which only includes the notice and fining aspect similar to what they have with the Property Maintenance. He stated they could also include language that if there is existing bamboo, it must be contained, and that there could be no more planting of bamboo going forward.

Mr. Truelove stated there are different ways of handling this with the most extreme being that the Township would be going in and taking the bamboo out, and then charging the homeowners for the work done.

Mr. Benedetto stated he feels there should be a ban on any new bamboo and a requirement for containment of existing bamboo. He stated Ms. Maguire's situation is intolerable. He stated there are other situations where it is just starting to encroach on people's properties, and he feels an Ordinance should be enacted that states the current owner has to contain it so that they will prevent a situation which has occurred at the Maguire residence where the bamboo has run hundreds of feet. He stated he feels it is such an invasive species that it should not be allowed to be planted.

Mr. Benedetto stated he understands that Ms. Maguire is currently in litigation, and he feels the containment of her property line should be required by her neighbor. He stated the bamboo on the neighboring property is 25' to 40' high, and Ms. Maguire has an ongoing battle to keep it off of her property. He stated he feels this is unacceptable as it impacts her quality of life and her ability to sell her property. Ms. Tyler asked what they could do right now to help Ms. Maguire since the bamboo was not planted illegally. Mr. Benedetto stated he feels there would be notice sent that an Ordinance has been passed, and that there is a requirement for containment; and then a series of fines if they do not meet the requirements.

Ms. Reiss stated she feels that if there is an Ordinance where they are banning it going forward and requiring containment of existing bamboo, that would give those having a problem help in Court.

Mr. Benedetto stated this is a quality of life issue. He stated other Townships have been able to do something about this.

Mr. Fritchey stated he agrees that other Municipalities have passed Ordinances, but he would like to know if those Municipalities are going out onto private property and start excavating the bamboo to force compliance; and if in fact they have done so, what has been the experience with that or is it more effective to create a situation where there is a clear violation of the legal responsibility that allows a private litigant to go in and seek an injunction indicating their neighbors is in violation of a Township Ordinance. He stated while they are being fined, it is not helping their situation; and they would request injunctive relief that the bamboo be excavated at the property owners expense, and there would be a Court Order. He stated he feels that would be the most effective and least complicated. He stated if the Township were to go in with a backhoe, they could hit gas or water lines and effect the roots of other trees, etc. and the Township could be hit with damage claims. Mr. Benedetto agreed he does not feel they want the Township going onto private property.

Ms. Phyllis Maguire, 1100 Buckingham Way, stated she is spending thousands of dollars in fighting back the bamboo. She stated they need to keep in mind that this is so invasive that there is never just one property that ends up being effected. She stated the case in Yardley had bamboo that was radiating out to five different properties. She stated this is requiring individual property owners around the one property where there has been bamboo planted to go out and spend money which is a huge burden.

Ms. Tyler stated they are asking the Township to use tax money to fight for their personal private property. Ms. Maguire stated she is not aware of any Township that has gone onto a property with a backhoe, but she is aware of fining and liening. She stated no one is talking about Lower Makefield Township having a bamboo squad going out. Ms. McGuire stated the bamboo is growing out twenty feet every year, and it is impacting many more properties. Ms. McGuire stated there are others present this evening who are on other sides of this same property, and they are now facing the same problem that she has been facing. She stated this one property is effecting multiple property owners.

Ms. Tyler asked the status of the litigation in Yardley Borough; and Ms. Maguire stated while she does not know, she is aware that one property has been taken care of. She stated the Ordinance was passed, and the bamboo was removed from the surrounding properties.

Mr. Fritchey stated the Yardley Borough Ordinance specifically says that in the event that the bamboo owner does not remove the bamboo from the Borough property, that the Borough can go in and tear it up. Ms. Maguire stated many of the Ordinances make a distinction between public and private property.

Ms. Tyler asked who paid for the remediation in Yardley Borough; and Ms. Maguire stated she believes it was the bamboo owner, but they should contact someone at Yardley Borough about this. Mr. Truelove agreed to contact the Yardley Borough solicitor as well as the solicitors in other Municipalities who have such Ordinances.

Ms. Reiss stated she feels having an Ordinance is a good deterrent and banning it is a good place to start. She stated if they have a clear Ordinance, the Courts can decide how to enforce it.

Ms. Maguire stated she feels they should have an Ordinance that includes an underground barrier so that if someone has invasive bamboo, they have to contain it. She stated they need to set out requirements on how people have to deal with this extremely high-maintenance activity. She stated they should require an underground barrier and a setback from public and private properties. She stated

snow breakage of bamboo is also a huge problem. Ms. Tyler stated she has no problem with any of this moving forward, but her struggle is with the bamboo that is already there and a retroactive ruling. Ms. Maguire stated there are many property owners in Lower Makefield who are struggling with this, and it is effecting their quality of life and their property values.

Mr. Fritchey noted a provision in the Yardley Borough Ordinance Section 31-6 which discusses if there is a violation of the Ordinance, “Any owner/occupant receiving a Notice of Violation shall bring their property into compliance with this Chapter within fifteen calendar days of the owner/occupant’s receipt of the Notice. If the owner/occupant fails to bring their property into compliance with the Notice of this Chapter, the Borough may then issue a non-traffic citation against the owner/occupant. In addition where an owner/occupant does not within fifteen calendar days remedy and correct or make arrangements to remedy or correct the violation set forth in any Notice of Violation issued to them, the Borough may remove any weed, bamboo, or other vegetation that is in violation of this Chapter and located on the owner/occupant’s property and/or has spread to an adjoining property taking all reasonable actions to eradicate its re-growth and restore any real property to its natural condition prior to such removal and eradication. Any costs incurred by the Borough in remedying any violation of this Ordinance shall be at the expense of the owner/occupant; and in the event that the costs remain unpaid within thirty days after demand has been made, they may lien the property.” Mr. Fritchey stated it also states, “In the event that the Borough is compelled to undertake remediation of any violation as provided above, neither the Borough nor its employees, contractors, or agents shall have any liability to the owner/occupant for any damages.” Mr. Fritchey stated it is clear that if you lived in Yardley Borough, they could if they chose to do so go in with a backhoe and chop out bamboo. Mr. Fritchey questioned if they have ever gone to this level of enforcement.

Ms. Reiss stated she feels it is more of a deterrent; and people who know this may happen, will be a little more likely to obey the law. Mr. Benedetto stated there are a number of different Ordinances that they can pick and choose from. Mr. Fritchey stated that the Yardley Borough Ordinance does not say that they will actually go on the property, it says that they “may” do this.

Ms. Maguire stated the invasive bamboo is along almost a 400’ border, and it is 50’ tall, and has invaded her property in some places as much as 65’. She stated the estimate she received to remove rhizomes from her property was \$8,500. She stated it is a constant amount of work trying to dig it out and keeping it mowed, and it overwhelms any other kind of vegetation.

Mr. Fritchey asked Ms. Maguire how the neighbor who has the bamboo on the property has responded to this, and Ms. Maguire stated there has been absolutely no response. She stated there had been no maintenance done on the bamboo; but now that there is a lawsuit, there are some people out there some evenings raking some of the bamboo, but that is the first maintenance they have seen. Mr. Fritchey stated that seems pretty minimal, and Ms. Maguire agreed it is very minimal. Mr. Fritchey asked Ms. Maguire if they were to pass an Ordinance that they were out of conformity with the Ordinance, and that if it was not abated, they would be subject to fines which could result in liens, does she feel that would have a deterrent effect particularly if those became cumulative and kept increasing if they were to ignore the directives from the Township; and Ms. Maguire stated she does feel it would have an effect. Ms. Tyler stated she does not feel that would help Ms. Maguire, and Ms. Maguire stated a barrier would definitely help her. Mr. Fritchey stated he also feels a significant lien against someone's property might have a significant deterrent effect.

Ms. Tyler asked Ms. Maguire about putting a barrier on her side of the fence given what it is costing her and her family to fight this since if she had remediation on her side of the property, they could then go to Court and seek money back from her neighbor. Ms. Maguire stated the lawsuit is to try to have the property owner put in a barrier; and if the suit is lost, the remedy is that she would have to put up a barrier on her own property herself.

Mr. Fritchey asked how long ago the lawsuit was filed, and Ms. Maguire stated it was filed in Bucks County several years ago; and it is very hard to find a company that can deal with something that is this big although now there are starting to be bamboo companies because there are so many Ordinances being passed. She stated in the wake of these Ordinances a lot of bamboo owners need to have removal. Mr. Fritchey asked if her neighbors responded to the civil complaint; and Ms. Maguire stated they did, and the Court date will probably be this fall.

Ms. Maguire agreed to send the Township photos of her property.

Ms. Reiss stated there are different types of bamboo, and she does not feel that all of them are invasive. Ms. Maguire stated there are over a thousand species some of which are called clumping which does not run, but it still has the breakage which is also a problem.

Mr. Barker Hamill, 207 Garber Drive, stated he has been at his property since 1946. He stated he is on the other side of the property that has bamboo. He stated he is in favor of any Ordinance that would help in any way, and he would like something done. He stated he sent a letter with pictures to all of the Supervisors.

Mr. Zachary Rubin stated he lives in a condominium community, and they have problems with enforcement all the time. He stated as an example if someone parks a Commercial vehicle in their community, they are sent a Notice; and if there is no response, they are fined, and if there is no response, they take them to Court and lien their property. Mr. Rubin stated if the liens do not work, they go into Court for injunctive relief and the Courts start fining them. He stated the Township could pass an Ordinance to ban the future planting of bamboo, and they can make those with bamboo already on their property put in barriers. He stated he does not feel it should be difficult for the Township to have enforcement of their Ordinances.

Mr. Alan Dresser, 105 E. Ferry Road, stated the EAC is still very much in favor of an Ordinance to control bamboo since that would be the most efficient, effective, and reasonable way to deal with this problem that is not going away. He stated there should be a set of requirements for new bamboo and a set of requirements for the existing bamboo.

Mr. Truelove was directed to look at some of the Ordinance already passed particularly the Yardley Borough Ordinance. Ms. Tyler stated they have done this, and she feels the concern is about the enforceability of those. Mr. Fritchey agreed it is the enforcement experience of the communities that have passed these. Mr. Truelove agreed to contact the solicitors who have made their Ordinances available to the Township, and he will then draft an Ordinance to address some of the issues they have discussed including containment, fines, and the lien process.

Mr. Truelove stated the Board met in Executive Session at 6:15 p.m. and matters of litigation, personnel, and Real Estate were discussed.

APPROVAL OF EXTENSIONS – DOGWOD DRIVE, CAPSTONE TERRACE, FIELDSTONE AT LOWER MAKEFIELD, ARIA HEALTH, JENNINGS TRACT

Ms. Tyler moved, Mr. Reiss seconded and it was unanimously carried to approve the following Extensions:

- | | |
|-------------------------------|----------------------|
| Dogwood Drive | – October 1, 2016 |
| Capstone Terrace | – October 1, 2016 |
| Fieldstone at Lower Makefield | – December 31, 2016 |
| Aria Health | – December 31, 2016 |
| Jennings Tract | – September 30, 2016 |

ZONING HEARING BOARD MATTERS

With regard to the Joseph and Amy Magee Variance request for the property located at 21 West Ferry Road in order to permit construction of a detached garage and pad resulting encroachment into the side yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Ronald and Michele Balerno Variance requests for the property located at 1347 Gates Circle in order to permit construction of an addition and bilco egress resulting in encroachment into the rear yard setback and greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Michael and Tammy Hosgood Variance request for the property located at 1424 Innis Lane in order to permit construction of a deck with roof resulting in encroachment into the rear yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Benedetto reported that the Golf Course was closed six days in May due to weather, and 4,550 rounds were played; and while Golf revenue was slightly down, merchandise sales were very high and had a seven season record. Mr. Benedetto stated the Bids for the new cart fleet went out, and the Bid submissions are due by the end of the month with anticipated delivery by August. Mr. Benedetto reported on a Qualifer held on May 2 with 130 players participating, and the Course was lauded by the players on its condition. He stated they will also be hosting another Qualifer in June, 2017 and a U.S. Open Qualifier in 2019. Mr. Benedetto stated the Makefield Highlands GM Bob Doria was featured on the cover of the May Golf Business Magazine as well as a four-page article on the Course and the facility. He stated the tent at the Golf Course has been re-branded as The Manor at Makefield Highlands, and there are two scheduled events in the tent for June. He stated the event coordinator has reached out to the Jewish community as a location for Bar and Bat Mitzvahs.

Ms. Reiss stated the Farmland Preservation Corporation continues with fencing. She stated they have asked the Township to deal with the Bridge Authority with the purchase of property. Ms. Reiss stated the Seniors are concerned about the Bids for the Community Center, and Mr. Fedorchak stated Bids are due July 27. Ms. Reiss stated the Seniors also wanted the Board to be aware that the money they will be giving toward the Community Center will be for interior furnishings. Ms. Tyler stated she was their liaison for a number of years, and the Seniors made a

commitment of approximately \$50,000 toward the Community Center; but they wanted that money to go for furnishings inside which they would use such as tables and chairs, storage units, etc. She stated they will also share those items with the community.

Ms. Reiss stated they still need members on the Special Events Committee. She stated they had a meeting and there are a number of great things planned for the community with Parks & Rec, and they need people who are willing to help out. She asked those interested to contact Mr. Fedorchak or any Board member.

Ms. Tyler stated there was a HARB meeting and members of the Historic Commission and Dean Dickson from the Planning Commission were also in attendance to discuss the Scammell House. Ms. Tyler stated the House is subject to a Façade Easement. She stated they showed the Plans for what they are going to do with the House, and they are holding true to the Façade Easement. Ms. Tyler stated they were unanimously in favor of approving the Plans for the House. Ms. Tyler stated the people who have purchased the House have lived in the Township over the years, and they appreciate the historic nature of the House.

Mr. Fritchey stated the Park & Recreation Board met last evening, and the Annual Road Tour will be on Tuesday, July 12 at 6:30 p.m.; and all Supervisors are invited. He stated there are a number of projects going on, and it is going to be useful to stop at the different venues to see how they are coming along and what they want to do in the future. Mr. Fritchey stated the Special Events Committee met prior to that meeting as Ms. Reiss noted, and there are several fundraising events being planned with the purpose of the fundraising events being to help lift some of the load from the taxpayers in terms of paying for a lot of the Township programs and amenities we all enjoy. Mr. Fritchey stated there will be a Home Run Derby across the street and a tournament with possibly corporate teams being organized. He stated this will be on Saturday, September 10 in the morning. He stated there are also plans to close off part of Edgewood Road and have food trucks and other amenities available. He stated they hope to raise money from this for both the real time operation and maintenance of the Garden of Reflection, the Dog Park, and other Township activities. Mr. Fritchey stated there will also be a Golf Scramble on October 7 and consideration is being given to having a dinner dance at the Club that evening; and this will be fundraising for the Township 501C3.

DOG PARK UPDATE AND MOTION

Mr. Benedetto stated the Dog Park Committee has had a number of fundraisers including a Baskin & Robbins fundraiser, sale of t-shirts, and a raffle for an August membership to the Pool.

Ms. Tyler stated she feels they need to formalize this Committee, assign a Supervisor Liaison, and treat them as they had treated the Veterans Committee. Mr. Fritchey stated he feels it should be plugged into Park & Rec. Mr. Fritchey stated he feels they probably have contact most often with Ms. Liney, and the Township Manager needs to be briefed on what is going on.

Mr. Fedorchak stated he feels it would be helpful if they would formalize the Committee and that they establish a Treasurer and someone they can communicate with, and he would like Ms. Liney to be involved up front; but he added the bills are ultimately coming to him, and the bills are being paid out of the Foundation.

Ms. Tyler asked what bills are coming in; and Mr. Fedorchak stated it was t-shirts, banners, and other items necessary as part of their fundraising activity. He stated he needs to have those expenses vetted and approved by the Committee, and it would be helpful for them to have a Budget as well.

Mr. Fritchey moved, Ms. Tyler seconded and it was unanimously carried that the LMT Dog Park working group be made a sub Committee of the Park & Rec Board, that its lines of communication be through the Recreation Director, Donna Liney, on up to the Township Manager, Terry Fedorchak; and that the members of the group be placed in contact with David Gordon, Chair of the Park & Rec Board, and that he conduct liaison with them so that the Park & Rec Board stays abreast of their activities and appropriate communications occur that are necessary for appropriate and smooth fundraising and the approval and vetting of any expenses and bills that are incurred in the course of their activities and any expenditures need to be approved.

Mr. Benedetto agreed to be the liaison.

Mr. Mike Brody asked if the Township is paying for the t-shirts etc.; and Ms. Tyler stated they had not approved those expenses, but expenses were submitted which necessitated this conversation. She stated they do not have a Budget or spending authority. She stated they are making sure that the lines of communication are set and that authorization for expenses are properly vetted and approved.

APPROVAL OF RESOLUTION NO. 2305 AUTHORIZING EXECUTION OF
MAINTENANCE AGREEMENTS FOR HEACOCK ROAD AND STONY HILL ROAD QUIET
ZONE CROSSINGS AND AUTHORIZATION TO GO OUT TO BID

Mr. Eisold stated the Maintenance Agreements were previously reviewed by the Township solicitor and were approved by the Board; however, PennDOT is requiring as part of the PennDOT Permits for these two crossings to have an actual Resolution stating that the Township supports the Maintenance Agreements so this is just a formality.

Mr. Eisold stated he has a schedule which he provided, and he is looking for authorization to go out to Bid on the Quiet Zone construction. He stated they propose to advertise over the next couple of weeks and have a Bid opening on July 20 which would allow them to award sometime the end of August with construction the beginning of early September. Mr. Truelove stated this is also consistent with the Grant timeline.

Ms. Tyler moved, Mr. Benedetto seconded and it was unanimously carried to approve Resolution No. 2305.

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to authorize advertisement for the Quiet Zone construction.

Mr. Eisold stated there are mylars for the Jennings Tract and St. Ignatius which have been set out and require Board signature this evening.

APPOINTMENTS

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to appoint Peter Solor to the Environmental Advisory Council.

There being no further business, Mr. Fritchey moved, Ms. Reiss seconded and it was unanimously carried to adjourn the meeting at 11:00 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary

