

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – NOVEMBER 2, 2016

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on November 2, 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
 Barbara Kirk, Township Solicitor
 Mark Eisold, Township Engineer

Absent: Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Kaaren Steil, Historic Commission, stated they had a successful event on Saturday at the Slate Hill Cemetery. She stated more than 300 visitors attended the Tour. She thanked the press for their coverage of the event, the docents, re-enactors and other volunteers, the Police Department, and the Park & Recreation Department. She stated they are still looking for volunteers to serve on the Historic Commission. Mr. Fritchey stated they did a wonderful job and the Tour was very interesting and educational. Mr. Benedetto stated he understands that they raised more than \$1,400. Ms. Tyler commended them for a great job.

Mr. Harold Kupersmit, 612 B Wren Song Road, asked if Mr. Fedorchak will be leaving the end of the year; and it was noted he will be staying on. Mr. Kupersmit discussed a number of issues including gun control, gambling, and the upcoming Election.

Ms. Paula Mezick stated she lives in Regency at Yardley at 187 Fillmore Way, and stated many of her neighbors are concerned that they have an issue that could be potentially serious. She stated they have gone to Toll Bros. but they have not been responsive. She stated they are experiencing a problem with what they feel could be black mold and serratia which is a pink substance which occurs when water drops

are on the surface and turn pink. Ms. Mezick stated they are constantly cleaning out the commodes, faucets, washing machines, dishwashers, and anywhere water hits; however, she stated it is not a water problem. She stated PAW came out to their homes and tested the water as did Toll Bros., and everything comes back negative. Ms. Mezick stated they would like the Township to assist them in this matter, and they would like some of the homes to be tested to determine if there is a health hazard. She stated this is a retirement community, and they do not want to deal with this.

Mr. Benedetto asked how many residences have this issue, and Ms. Mezick stated currently there are eighty-five homes that have it that they are aware of out of one hundred and seventeen homes. She stated Toll Bros. has not completed their development, and they have started across Big Oak Road with the carriage homes. She stated she has a Petition listing the families and their addresses.

Ms. Mezick stated they have asked Toll Bros. to cooperate with them since they are the builder, and they refuse to do anything.

Mr. Fritchey asked what test they feel should be done. Ms. Mezick stated they would like to have testing done in the commodes to determine what the black substance is. She stated it comes in three forms – one looks like mascara, another looks like crude oil or black sludge, and the third one has a texture and looks like mulch. She stated the serratia is in their machines, on the faucets, and inside the drains. Ms. Mezick stated she advised the Township of this problem at least a year ago if not longer. She stated she knows that Mr. McHugh has been in touch with Mr. Fedorchak, but they have gotten nowhere.

Mr. Fedorchak stated last March Dr. McHugh advised him of the situation, and he did not see how the Township had any standing in this situation; but this would be up to the Board of Supervisors to decide that. Mr. Fedorchak stated he looked to the appropriate regulatory agencies that deal with this starting with the Bucks County Health Department, and he sent information he received from Dr. McHugh to them. He stated they reviewed it and noted that the Pennsylvania American Water Company, as has been reported this evening, had done testing and the tests proved negative; and as a result they did not see anything they could do that was actionable. Mr. Fedorchak stated he then went to DEP and sent them the same information; and he talked directly to the then Director of DEP Cosmo Servidio, who reported that he and his staff looked at the information he sent them; and they could not see anything actionable on the part of DEP.

Ms. Mezick stated it is not a water issue.

Mr. Ryan Newman, 179 Fillmore Way, stated he does not have this problem, but he is a member of the Environmental Ad Hoc Committee for their community. He stated it is not surprising that the test came back negative. He stated when there is a potential issue with black mold a specific set of tests needs to be done. He stated it is likely that the pink material Ms. Mezick mentioned is serratia. He stated he feels they are looking for support through the Health Department or the Township as to where they should go next for help. He stated if it is black mold it is a significant health issue.

Mr. Benedetto stated the Township could put pressure on Toll Bros. as they have in the past when there was another issue with a contaminated well, and the Township would not issue Toll Bros. any Permits. He stated the Township could also offer financial support for the testing. He stated he feels the Township has benefitted tremendously from the building of this development, and he understands that testing could cost \$4,000 to \$5,000.

Ms. Reiss asked that they get DEP to come out and see it and take a sample. She stated DEP just checked the water, and she feels they should come out and see it.

Ms. Mezick stated their Committee went to Mr. Santarsiero's office and met with his staff members many times, and his Chief of Staff came to one of their homes; and she recommended that they come to the Township as she advised them it was a Township issue and not a State issue. Ms. Reiss stated the DEP is a State agency. Ms. Mezick stated the DEP would not listen to them.

Ms. Tyler asked what DEP stated when they contacted them, and Ms. Mezick stated they went through Mr. Santarsiero's office, and they were told that they could not personally speak to DEP by Mr. Santarsiero's office. She stated a file was opened and they were getting positive responses from Ms. Booth from Mr. Santarsiero's office initially, but they were told at the end that they had to go to the Township.

Mr. Fritchey stated the DEP is a State agency that looks at environmental problems throughout the Commonwealth of Pennsylvania.

Mr. Benedetto stated he feels that this is a Township matter. Mr. Benedetto stated Toll Bros. has profited off the backs of the Township, and he feels the Township should stand with their residents.

Ms. Tyler stated she feels they were steered wrong and the residents should have been in direct contact with the DEP. Ms. Tyler stated she feels Ms. Kirk should send a letter to the DEP and ask them to look into this as they are the regulatory agency that is responsible. She stated DEP should be coming in and testing these substances.

Ms. Mezick stated she feels the Township should get someone to come to their homes and test this. Mr. Benedetto stated a company does this testing, and he feels either the Township should help offset the cost or pay for it themselves because of the benefit the Township has had overall from the Matrix development.

Ms. Tyler stated she agrees they need to find the cause of this problem, and she feels the Township should contact DEP. Ms. Mezick stated DEP will only deal with the problem if it is outside the home. She stated she also spoke to other agencies besides the DEP, and it was an Environmental Protection Agency she found in the Philadelphia Yellow Pages. She stated she knows that the EPA will not test inside the home. Ms. Tyler stated DEP and EPA are separate agencies.

Ms. Kirk stated she agrees they need to identify the problem, and the Township probably has more “pull” than an individual resident so they should contact the DEP first and put Toll Bros. on notice that the Township is investigating this. She stated until they know exactly what the source is, anything else is premature. Ms. Mezick asked what will happen if they get nowhere.

Mr. Benedetto stated previously when a resident had a problem with his well, they withheld Permits from Toll Bros.; and he asked if this is something that they can do. Ms. Kirk stated she cannot answer that question since she does not know what the Plans were, Building Permits were, or inspection results were. She stated this may be a possible course of action the Township could take but she cannot say definitively at this point without looking into this further.

Mr. Fritchey asked if there is a specific test Ms. Mezick feels should be done and if they have identified a company which does this. Mr. Newman stated they know they need to do specific mold testing but he does not know the cost. He stated they could get in touch with someone to find out what they need to do to be able to assess the situation. Mr. Fritchey asked if any of the eighty-five homeowners effected by this have undertaken that step, and Mr. Newman stated there was contact with Laboratory Services, but they were not sure they were going to do the span of tests they wanted to identify the organisms, and they were not happy with the response; and he feels they need to find another company.

Ms. Rae Pinchuk, 1664 Umbrell Way, stated there is black on the windowsills, toilets, and mold all over the house. She stated they should not have new expensive homes that are completely engulfed in this substance which is getting worse with time.

Ms. Reiss stated she has some of this in her home in her windows, and she feels some of it is indigenous to the area. Ms. Pinchuk stated it is worse in their development, and she feels Toll Bros. should clean it.

Ms. Tyler asked Mr. Fedorchak if he has spoken to Toll Bros. about this, and Mr. Fedorchak stated he has not.

Mr. Jeffrey Weiss, 1672 Umbrell Way, stated they may not want to issue any more Certificates of Occupancy because this could be a health hazard.

Ms. Tyler stated she feels this item should be properly Agendized, and they should have Toll Bros. attend and explain what, if anything, they have done to remediate this; and depending on what Toll Bros. indicates, the Board could make a decision as to how to proceed. She stated in the meantime she feels the Township should go forward with a letter to the DEP with a copy to Toll Bros. asking for the testing using the names and addresses on the Petition as she assumes they would allow access by the DEP to their homes.

Ms. Tyler stated one resident who spoke this evening indicated he did not have the mold problem, and she asked if that may have something to do with the topography of that property.

Mr. Weiss stated while he was not the individual who stated that, he has a whole house filter in his home, and he does not have the mold. Mr. Weiss stated that he does not disagree with going to the DEP first, but he asked if there could be a time deadline so that it does not sit at DEP for three years.

Mr. Lewis stated while he had heard about this issue previously, he did not realize it was still outstanding. He stated this may be a Township issue as it relates to Building Permits and review. He feels they should investigate it as they would any Code Enforcement issue. He stated the Township should also contact Toll Bros. He stated they will also need entrance to the homes that have the mold so that they can go in and inspect it. Mr. Lewis stated Mr. Fedorchak should look into what the testing would cost, and then contact Toll Bros. for that. He stated when the Township first found out about this, they did act very rapidly going to the County and DEP and he does not see any reason why they cannot go to Toll Bros. and do an investigation on our own. He stated if there is a health hazard, there is also a Code Enforcement fine although he is not certain that could offset the cost of the inspection and a whole host of other issues. He stated there is not a complete HOA

that the Homeowners own, and it is still controlled by Toll Bros. so that may give some leverage as it relates to a case for remediation, and the Township needs to explore that option as well.

Mr. Robert Abrams, 652 Teich Drive, stated he is an environmental consultant and his specialty is the pharmaceutical industry and hazardous waste; and he feels they have no clue as to what they are dealing with. He stated they should get a sample and take it to the UC Laboratory in Southampton, and he would do that for these people at no charge. He stated it could be any number of things. He stated if it is mold, it is a health problem. Mr. Abrams stated he did give the residents his card.

Mr. Benedetto stated Mr. Fedorchak has been asked to write the letter, and he asked if the first meeting of December would be a good time to bring Toll Bros. in. Ms. Reiss stated she feels DEP will be proactive if the Township calls them.

Ms. Tyler asked if the Bucks County Health Department performed a site visit or just reviewed the water test; and Mr. Fedorchak stated it was just an evaluation of the information he sent them, and he does not believe they went to the site. He stated he also believes they reached out directly to PAWC. Ms. Tyler stated there should also be a letter sent to the Bucks County Health Department requesting that both the DEP and the Bucks County Health Department perform a site inspection. Ms. Tyler stated they are the proper agencies to perform the tests, and she is hopeful that when the request comes from the Township, they will be more responsive.

Mr. Benedetto stated he feels Tolls Bros. should be asked to come to the meeting on December 7 so they can ask them what is going on and what they are going to do about it.

Mr. Abrams stated Toll Bros. would not want their COs held up. He stated the onus is on Toll Bros. to certify to the Township that they are not using inferior or contaminated materials.

Mr. Charles Kroen, 1668 Umbrell Way, stated they need to find out if DEP only checks things externally. Mr. Fritchey stated the Township Manager is going to contact them, and they will be able to find that out quickly. He stated the Township is proceeding along several avenues. Mr. Lewis stated he also wants the Township Manager to explore the cost of the tests; and if it is de minimis; it is not an issue. Mr. Lewis stated the Township works with DEP in Norristown on a relatively frequent basis, and he respects them.

Ms. Tyler asked Ms. Mezick if they have photographic or other evidence she could provide besides the Petition she is presenting this evening, and Ms. Mezick stated she has it on her phone. Ms. Tyler asked if they have a group of residents who are working together and sharing information so that the Township can have a complete packet of the conditions that presently exist. Ms. Mezick stated she is involved with the Environmental Committee at Regency at Yardley. She stated Ms. Ellen Slepian who resides in Regency at Yardley on Pierce Way and she has copies of correspondence that has been going back and forth between Toll Bros. and Ms. Slepian. Ms. Mezick stated Mr. Fedorchak did have some information, and Mr. Fedorchak stated he did get a packet of information from Mr. McHugh in March; and if there is other information he would appreciate having that.

Ms. Tyler stated it is possible that this will result in a private right of action by the homeowners against the developer; and if that is so, the homeowners will want to have all this information together.

Ms. Kirk stated she will work with Mr. Fedorchak in getting the contact information out; and they may need to do something at the Township level such as sending someone out to individual homes to take independent photos and coordinate that as well so that it is an objective third party taking the photos.

Mr. Fedorchak asked that Ms. Mezick contact him tomorrow afternoon so they can discuss this further, and Ms. Mezick stated she will contact Ms. Slepian about this since she is the most knowledgeable.

Mr. Newman stated he feels it is more a situation where it is materials or time of year of construction since it is random in the development. Mr. Abrams stated it could be an adhesive problem as well, and he feels they have a good reason to shut Toll Bros. down.

Mr. Abrams stated he feels the previous discussion they had about guns was all about politics when safety is the issue.

APPROVAL OF MINUTES

Ms. Tyler moved, Ms. Reiss seconded and it was unanimously carried to approve the Minutes of October 19, 2016 as written.

DISCUSSION OF CAPSTONE TERRACE AND PROPOSED ZONING ORDINANCE
AMENDMENT ESTABLISHING MULTI-FAMILY AS A CONDITIONAL USE IN OFFICE/
RESEARCH DISTRICT AND MOTION TO CLOSE TESTIMONY

Mr. Robert Dwyer was present and was sworn in. Mr. Dwyer stated he is present on behalf of Equus (BPG) which owns fourteen acres of ground on Township Line Road. He stated they hired him five years ago to assist them when they saw that the market conditions along Township Line Road and the Office vacancy rates started to skyrocket. He stated at that point they owned the Lower Makefield Corporate Center and Floral Vale which they had owned since 1980. He stated the land was zoned for Office/Research. Mr. Dwyer stated in the thirty years they owned it, they built sixty acres, and they still own fourteen acres of ground which has been approved for 180,000 square feet of office. He stated they have been actively marketing that property for over ten years. He stated Equus (BPG) is a National company with hundreds of thousands of square feet of Office, shopping centers, and apartments throughout the Country. He stated they are a large firm with sophisticated marketing techniques and a broad reach; and they have expended significant, time, energy, and money to try and market this property.

Mr. Dwyer stated he was asked to see what he could do with the property in a way that would be helpful to the vacancy rates at the Corporate Center which were 30% to 50% which is unsustainable. He stated he went to the Planning Commission and the Board of Supervisors, and attended the meetings of the Planning Commission for two years as they worked on the Comprehensive Plan update. He stated these meetings included input from residents, professionals, and Township Boards and Commissions; and they generated a Comprehensive Plan update in February, 2015 which recommend that the O/R District be looked at and analyzed for additional uses since it has been proven through the marketing and numerous trade publications that the Suburban office market is deteriorating rapidly. He stated he has provided numerous articles and market studies showing this, and he could provide more.

Mr. Dwyer stated this fourteen acre property sits between Edgewood Village and the Corporate Center. He stated Edgewood Village is an objective the Township has had for many years; and in 2000 the Board commissioned a study on Edgewood Village, and in 2015 they secured a Comprehensive Plan update which he is also following. He stated he is presenting a Plan and an Ordinance this evening proposing that the 180,000 square feet of Office be re-zoned to allow for an additional use which he would suggest would be Residential. He stated while Retail would be viable, he believes that would be harmful to Edgewood Village which is trying to emerge as a little Village consistent with the 2000 March Associates Study which the Township spent significant money on and on which many stakeholders provided input.

Mr. Dwyer stated this property is situated between the Corporate Center and Edgewood Village and the Residential use will add customers to the Village not competition which will make Edgewood Village more sustainable. Mr. Dwyer stated AIG currently owns the Corporate Center, and they feel this use would be sustainable for them as well. He stated there is a National trend that Suburban Office is on its way down because Millennials want to be close to train stations; and they want to live, work, and play in an environment that does not exist right now in Lower Makefield since they do not have a train station. He stated they need to find a way to create amenities and an atmosphere that would attract tenants.

Mr. Dwyer stated they are proposing 192 multi-family apartments, and this would have a greater fiscal impact for the Township than would Office or Retail. He stated he also submitted a traffic report that shown that this use will result in 762 less trips per day than Office. He stated there will also be less impervious cover as there will be more green space. He stated it will also generate fees and taxes for the Township, and it will benefit the Corporate Center which will hopefully stem the tide that exists today where the buildings are getting more and more vacant.

Mr. Dwyer asked that the Board take a vote on the Ordinance which was submitted.

Ms. Reiss stated she has information available from June 15, 2016 which includes everything that was reviewed so Mr. Dwyer is just providing a repetition. She stated the Planning Commission did not recommend this use, and she feels having more discussion on this over and over again is not going to change the opinions the members of the Board have. She stated she has received numerous e-mails, phone calls, and text messages about this piece of property which is not connected to anything. She stated she has gone over the bridge; and unless there is plan by PennDOT to put in an overpass, it is very dangerous to walk or ride a bike there. She stated if they put in apartments, there will have to be road improvements there, and there will be more traffic which is a big concern for people who use that road all the time. She stated she does not feel it is the right place for Residential.

Mr. Dwyer stated he has talked to a number of people as well about the pros and cons, and a number of the people he has talked to have changed their opinion as to what makes more sense there.

Ms. Kirk stated she believes that there is a procedural issue. She stated this was before the Board on June 15, and it was announced that it would be carried to July 6. She stated this matter was just placed on the Agenda for this evening, and it was never advertised as a Continued Hearing. Mr. Dwyer stated he felt it was Continued to a date certain, and they should talk to Mr. Truelove and Mr. Murphy

about that. He agreed that if there is a procedural issue, they will have to deal with that. Mr. Dwyer stated at every meeting it was Continued, and it has not expired, nor has the Applicant waived their rights. He stated he will come back again if he has to.

Ms. Kirk stated the last letter she sees in the file was dated July 7 indicating that the Hearing on the Text Amendment has been Continued indefinitely so there was no date certain, and it was not advertised for a Continued Hearing. She stated she therefore does not feel that the Board is in a position to vote on this because it was not advertised that it was coming back before the Board for a full Hearing.

Mr. Benedetto stated if there is a need to have additional Notice and advertise it properly, he is fine with that; however, Mr. Dwyer has been waiting for five years, and he deserves a vote on this. He stated to do nothing about this is unacceptable. Mr. Benedetto stated he feels it should be properly advertised and put it back on the Agenda for December 21.

Ms. Tyler stated she recalls the last time this was on the Agenda they talked about wanting to review and approve the Comprehensive Master Plan before they made a decision on Mr. Dwyer's proposal. She stated after that Mr. Dwyer came in with a Sketch Plan for a Commercial Use, and she was surprised that it then came back in as multi-family; and she asked why this happened. Mr. Dwyer stated out of respect for the Planning Commission and Ms. Reiss, he indicated he would come back with a Commercial Plan which addressed what they felt would be most appropriate, but he has never proposed an Ordinance for Retail; and he hoped they would approve a Residential use for all the reasons he has stated.

Mr. Dwyer stated the Comprehensive Plan was provided to the Board of Supervisors months ago. He stated he was looking for connectivity between the Corporate Center and Edgewood Village providing a use that would be helpful to both.

Ms. Tyler agreed that the Comprehensive Master Plan has not been approved by the Board of Supervisors although it was approved by the Planning Commission. She stated she can attest to the fact that Mr. Dwyer was present at the Planning Commission meeting for two years when they were working on that Master Plan.

Mr. Fritchey stated he believes that they are getting close to a consensus on a Revised Comprehensive Plan. He stated while he knows that there was a lot of work done up to 2015, that was with a different Board; and three out of five Supervisors are new and were not involved in the drafting of the Comprehensive Plan of 2015 as it currently stands. He stated many if not all of the Board members are open to reconsideration of exactly what the O/R Zone is going to consist of and what are going to be permissible uses there; however, that consensus has not crystalized yet, and he feels strongly that they should be adopting a Comprehensive Plan that is an

articulation of their vision for what should be done to that area, and then decide on the particular parcel Mr. Dwyer is interested in rather than doing it the other way around and dealing with this parcel first rather than the larger picture of what the Comprehensive Plan should be. Mr. Fritchey stated he recognizes that Mr. Dwyer has been very faithful in coming to the meetings and being very patient, but he feels the rational way to proceed is for the Board to make a decision on what they are going to do in terms of the Comprehensive Plan and then proceed onto what is going to happen with this parcel rather than rushing this.

Mr. Benedetto stated this is not remotely being rushed because Mr. Dwyer has been waiting for five years. Mr. Benedetto stated there are five new members on the Planning Commission; and the Planning Commission should at least approve the Master Plan update since they had nothing to do with the Plan that is before the Board. He stated he feels the Planning Commission should all get copies for review at their next meeting and either approve it or not approve it and make changes. He stated with regard to Mr. Dwyer's proposal, they had Ms. Bush present talking about the O/R being "dead;" and Mr. Dwyer has also advised that the O/R is an issue. He stated he does not feel the Board needs to adopt a Master Plan to make a decision on Mr. Dwyer's proposal. He stated he feels he needs the courtesy of getting a vote. He stated if necessary, it should be advertised properly; and those interested can come and make their voices heard. He stated he feels even if it is advertised it will be the same people who are present. He stated he feels this project has been talked about more than any other project in the last year. He stated the members of the current Planning Commission should look at the Master Plan, but Mr. Dwyer should be given the courtesy of an answer as he feels Mr. Dwyer has provided a strong case for why his proposal should be approved.

Ms. Tyler stated the Planning Commission that worked on the Comprehensive Master Plan for two years had ten to twenty-year members of the Planning Commission, and she does not see the point of sending it back to the current Planning Commission as it will only slow it down. She stated it is a good document, and the Board of Supervisors should be reviewing it and putting in on the Board's Agenda. She does not agree that it should go back to the Planning Commission.

Mr. Benedetto moved to send the Comprehensive Plan back to the Planning Commission for review.

Mr. Lewis stated he does not feel that this Motion is germane to the Agenda item they are discussing. He stated procedurally they have to follow the rules. He stated he feels he may be in the minority position in his being open to multi-family and seeing the value of that versus the other choices. Mr. Lewis stated he feels this

proposal would be a net benefit to the community given the other choices not just in terms of tax revenue to the community but also in providing some household diversity as the Township has a building stock that skews very highly toward single-family detached homes, and there are people who have different family circumstances who live in Lower Makefield. He stated a little more diversity in housing stock is a net benefit to the community. Mr. Lewis stated he has talked to Realtors who believe strongly that this would be a very successful development in terms of its ability to attract residents. He stated the types of residents they would be getting would be all of the same median income of Lower Makefield. He stated he talked to people who were concerned that they would be bringing in Section 8 Housing, and that is not the case. He stated this will not be a huge development so it will not be that many household units. He stated they are going to have an Economic Development report very soon, and there has been some decline in households within Lower Makefield; and this would help mitigate part of that.

Mr. Lewis stated out of the options, multi-family has some significant benefits as other options may cause issues within the O/R District as they would not necessarily want other O/R owners to start changing rules without the Township's control. He stated the Solicitor has advised that the Overlay District is entirely defensible and very narrowly constructed, and this would be a solution to a problem. Mr. Lewis stated while he would be in favor of Retail, he does not feel they would get the types of Retailers they would like that would be sustainable, part of the reason being the liquor policy and part being where things are in Retail. He stated in the absence of that, he feels the least risky choice is an Overlay for multi-family housing; and he feels this would be a reasonable decision. He stated procedurally, they need to go through the whole process. He stated he feels his may be a minority opinion. He stated he appreciates the fact that Mr. Dwyer has been open and has been open with the residents and willing to take the time to work with the Township.

Ms. Kirk stated at this point she feels it would be appropriate for a Motion to close Testimony and vote on that and then a Motion to set a date certain so that the Continued Hearing can be properly advertised.

Mr. Benedetto stated he agrees with Mr. Lewis, and he does not feel doing nothing is acceptable. He stated he does not feel O/R is going to come back. Mr. Dwyer stated there is over 500,000 square feet that is vacant, and additional vacant square footage in surrounding areas.

Mr. Dwyer stated they have done a similar project to what he is proposing in New Britain, and he has shown photographs of that project. He stated he also has demographics about that project, and he feels the people who would be moving into this proposed development would be very similar to the demographic in the Township.

Ms. Reiss stated she feels there are a lot of differences between Lower Makefield and New Britain. She stated the location at New Britain is not the same as this location in Lower Makefield as she feels the location in Lower Makefield is like a “little island.” She stated this is not the right place for Residential.

Mr. Dwyer stated he has described previously the improvements they would do with this apartment project, and they would not create problems. He stated Ms. Reiss had discussed the overpass, and he would agree it is not acceptable right now; however, the Village Study suggests that speeds going into the Village should be reduced dramatically, and they could do that by narrowing the lanes. He stated PennDOT has approved narrowing lanes in the past. He stated the Applicant will be spending close to a \$1 million to generate a crossing over I-95 to connect the Corporate Center with Edgewood Village, and that would add pedestrians to the Village as it creates connectivity. He stated the proposed project is between the Corporate Center and Edgewood Village, and the pedestrian connection will benefit the Township as a whole.

Ms. Reiss stated her concern is with the Edgewood Village since other than the Edgewood Café there are no Retail stores. She stated if Retail were there, there would still not be adequate parking for it. She does not feel people will walk from the Applicant’s site over the hill into the Village, and they will be driving to it where there is not adequate parking.

Mr. Dwyer stated the Edgewood Village Plan has parking proposed on the streets to help slow down the traffic. Mr. Dwyer stated there is a plan for Retail in the Village which will probably emerge successfully if they make this connection.

Ms. Tyler moved and Mr. Fritchey seconded to close Testimony.

It was noted some members of the public wished to speak at this time. Ms. Tyler stated there is a Motion to close Testimony which was Seconded, and she asked Ms. Kirk if they should close Testimony at this time and then have Public Comment. Ms. Kirk stated generally Public Comment is included as part of the Testimony.

Mr. Zachary Rubin, 1661 Covington Road, stated he feels that they should close the Record on this, but he feels they should take this item ad seriatim which he stated means “take it by its different parts.” He feels when Mr. Dwyer is here, they should be discussing the proposed Zoning Ordinance Amendment establishing multi-family as a Conditional Use in the Office/Research; and if they pass that tonight, then it would be advertised which would fulfill the concern about advertising of a proposed Ordinance. He stated he does not feel they should be discussing the proposed Capstone Terrace as he feels that is a separate issue. He stated if the Board passes

tonight to advertise a proposed Zoning Ordinance, that would then be concluded in the discussion of the Comprehensive Plan which would come up later for approval. He stated once the proposed Amendment is advertised, that would address the Solicitor's concerns.

Mr. Fritchey stated they may want to amend the O/R District, but not for Residential.

Ms. Kirk stated if you are proposing an Amendment to a Zoning or Subdivision Ordinance, you have to follow procedural requirements; and the fact that the last Hearing on this was Continued indefinitely, means that it has not been advertised as a final Hearing on the proposed Zoning Amendment. Mr. Rubin stated what he is proposing is that tonight they pass a Motion to advertise an Amendment, and he does not feel they should be discussing Capstone at this point; and the two items should be separate although Mr. Dwyer could discuss his proposal in more detail while he is here.

Ms. Kirk stated the proposed Amendment to the Zoning Ordinance was presented to the Board by Capstone. Ms. Reiss stated they need the time to look at the Comprehensive Plan to see what would happen with the whole O/R District. Mr. Lewis stated they need to vote to advertise the Amendment, and those who do not want to advertise it can vote against that which would be a signal and address this situation.

Mr. George Sengpiel, 1389 Heller Drive, stated he is in strong opposition to the proposal. He stated he has thirty-five years in Real Estate appraisal and the land development field, and he feels he has more knowledge about land use trends, Real Estate values, and how the market operates than anyone else in the room including Mr. Dwyer. He stated if the Board attempts to change the Ordinance before the Comprehensive Plan is approved, they are running the risk of a spot assessment. He reviewed a Court case related to this issue. He stated there are no other parcels in the O/R section that would comply with the Text Amendment proposed which is clearly out of harmony with the existing Plan.

Mr. Benedetto asked Mr. Sengpiel if he is suggesting that if the Board adopted the updated Comprehensive Plan looking at the O/R District to see if there is an opportunity to make a change to the O/R to allow for Residential or Commercial, then he would not have an issue with it being spot zoning; and Mr. Sengpiel agreed. Mr. Sengpiel stated if they were to approve the amendment as proposed now, the Township would find itself in the position of a legal battle in terms of spot Zoning the way the current Text Amendment is written. He reviewed another Court case related to spot zoning. Mr. Benedetto stated it seems that Mr. Sengpiel is still suggesting that even if they follow the proper procedure and adopt the

Comprehensive Plan which talks about changes to the O/R District it would still be spot zoning since the change would only be specific to this particular parcel. Mr. Sengpiel disagreed, and he added a Comprehensive Plan allows the Board to address flexibility in the O/R District which he feels would be proper. He stated this would raise the question whether it was good planning in terms of benefitting the health and welfare of Lower Makefield as a whole considering what Ms. Reiss has stated that this is an “island,” and they would then have to address the merits of this Application.

Mr. Fritchey stated he understands that Mr. Sengpiel feels they should adopt the Comprehensive Plan first followed by consideration of the proposed development consistent with the Comprehensive Plan that they adopt, and Mr. Sengpiel agreed.

Mr. Sengpiel stated he feels Mr. Dwyer is completely wrong in terms of the state of the Office market. He stated he agrees that it is not as robust as it used to be, but it is not in the doldrums that Mr. Dwyer purports it to be. Mr. Sengpiel read from the latest report from Colliers International discussing Office development. He stated he feels the problem here is the property owner who has the Application before the Board is not being realistic in their pricing, and as a result has eliminated the opportunity to bring in new tenants. He stated if they lowered their rents to \$20 a square foot, they could fill it in a week, but they are asking \$29 per square foot. He stated someone may come in with an Office proposal in the next twenty years; but if they change it to Residential, they will forever eliminate this property from becoming a part of the Office community. He stated he agrees that the Office market is not good, but that does not mean that it will not be good in ten years.

Mr. Dwyer stated he does not feel it is a fair comparison between Lower Makefield Corporate Center and properties in King of Prussia. He stated they are trying to create an amenity for the Office tenants. He stated AIG now owns the Corporate Center, and they have reduced the rents to less than \$20 a square foot and are getting B and C tenants; and they are still 50% vacant. Mr. Dwyer stated he has provided to all the Board members copies of numerous reports on the vacancy rates in Lower Makefield. He stated Newtown Township is better since they have some amenities.

He stated he believes that if Edgewood Village is developed, it will help stem the tide. He stated the Suburban Office market is not robust unless it is close to King of Prussia or a train station.

Ms. Reiss questioned why anyone would go to Edgewood Village other than to the Edgewood Café.

Mr. Dwyer stated if they lower the rents, the value of the property goes down, and Lower Makefield office buildings have already won tax appeals; and the assessed value of the Real Estate had gone down even before the 50% vacancy and the B & C tenants. He stated there are multiple demographics available that show that millenials do not want to drive to an Office Park; and they want to live, work, and play in the same area. He stated he is trying to find a way to create an environment that will attract tenants and people who want to live in this area. He stated if there were Liquor Licenses and some other uses in Edgewood Village that would create some excitement on the street and customers which would be helpful.

Mr. Benedetto stated Mr. Sengpiel is saying that this property might be developed ten years from now, and he feels that is totally unacceptable. He stated they have 400,000 square feet of empty space; and if there is a need in ten years, they can fill that empty space. Mr. Benedetto stated he feels Residential makes the most sense, and it actually fits in with what is already on Township Line Road since they have Polo Run a quarter mile down the street and Cornerstone further down as well so saying this is an "island" is not true since there is Residential up and down the entire road. Mr. Benedetto stated he feels they will fill the Residential units very quickly since the other apartments on Township Line Road have 90% occupancy rates.

Mr. Sengpiel stated he agrees they will have no trouble renting the apartments, but he does not believe it will be a net benefit to the Township. He stated Mr. Dwyer has provided to the Board what he purports to be a Fiscal Impact Analysis which he feels is misleading, improper, and ill conceived; and he stated it is not a Fiscal Impact Study. He stated he knows one line that is intentionally misleading is the comparison between the value of Office which he valued at \$100 a square foot versus Residential. Mr. Sengpiel stated a Corporate Center of 120,000 square feet in Warrington Township sold last year for \$163 a square foot. Mr. Sengpiel stated Mr. Dwyer is trying to tell the Board that a new office building is valued at \$100 a square foot which is a "lie."

Mr. Dwyer stated Mr. Sengpiel is talking about an existing building that is occupied versus a building that cannot even get financing now. Mr. Dwyer stated the tax dollars coming to the Township for this property are zero if it is never built.

Mr. Sengpiel stated if the Board is going to contemplate this Ordinance, they should ask that a professional fiscal impact study be completed, and not the document that the Board has which he feels is misleading. Mr. Dwyer noted the firm that provided the study has been doing fiscal impact studies for over thirty years and have testified in front of Townships and Courts for years.

Ms. Kirk stated the matter before the Board of Supervisors is a Zoning Ordinance Amendment as it effects the O/R District. She stated Mr. Dwyer through Capstone has presented that proposed Ordinance Amendment, and he is offering reasoning for the proposed Amendment based on his analysis of the property on Township Line Road. She stated the Board cannot vote on this tonight, and Mr. Dwyer and Mr. Sengpiel are arguing over something that will ultimately have to be carried to a different date for a vote. She stated Mr. Dwyer is promoting the Zoning Text Amendment, and Mr. Sengpiel is saying the information being offered by Mr. Dwyer is inaccurate and he is opposed to the Zoning Text Amendment.

Ms. Tyler stated there is a Motion on the floor to close Testimony.

Mr. Sengpiel stated they should also consider the need for a cost of services analysis which shows what generates positive tax revenue for the Township versus negative tax revenue. He stated this is typically found in a Fiscal Impact Analysis. He noted a company which has prepared these and of the 150 studies they prepared stated that Residential uses are a net negative tax value to the Township as the cost of services exceed the revenue generated. He noted another study prepared in 1996 for Buckingham Township where they found the cost of a residence was \$1.04 for every \$1.00 generated in tax revenue; and that Commercial, Industrial, and Office uses generate \$1.00 revenue with cost of services of \$.15. Mr. Benedetto reviewed other studies which are contrary to what Mr. Sengpiel has stated, and he also noted the positive impact on School District taxes by making it Residential as opposed to keeping it Office/Research or Commercial.

Motion to close Testimony carried with Mr. Benedetto opposed.

Mr. Benedetto added that he is opposed because he feels residents should still have the opportunity to respond. Ms. Tyler stated they could come back at a later time.

Ms. Tyler moved and Mr. Benedetto seconded to advertise the Zoning Ordinance establishing multi-family as a Conditional Use in the Office/Research District for December 21, 2016. Motion did not carry as Mr. Benedetto and Mr. Lewis were in favor, and Mr. Fritchey, Ms. Reiss, and Ms. Tyler were opposed.

Mr. Benedetto's earlier Motion to send the Comprehensive Plan back to the Planning Commission died for lack of a Second.

Ms. Kirk stated the Board has determined by a vote of three to two that the proposed Zoning Text Amendment will not be advertised and therefore there is no longer a Zoning Amendment before the Board.

Mr. Mike Brody, 509 Brookbend Court, stated he feels they have shut down public comment since one gentleman has raised serious opposition to the proposal; and there is now no opportunity for other people to speak in favor of the proposal. Mr. Benedetto stated he agrees and feels it is “appalling.” Mr. Brody stated Testimony should be heard until all the Public Comment is completed. Ms. Kirk stated the purpose was to Continue the Hearing to a date certain in order to make sure it was properly advertised. Mr. Brody questioned why they started Public Comment, and Ms. Kirk stated technically Public Comment is part of the Testimony. She stated the Hearing should not have gone on as long as it did because it was not properly advertised. Mr. Brody stated he and Mr. Bryan McNamara wanted to speak. He stated he recognizes that this will be a long meeting, but they have had other long meetings about minor topics. Mr. Brody asked if they will be considering Capstone in the future.

Ms. Kirk stated it was not the Capstone Plan that was before the Board, rather it was the proposed Ordinance to amend the Zoning in the O/R District to permit Residential. Mr. Brody stated he assumes that means that if that is not happening, it is done. Ms. Reiss stated they have not looked at the Comprehensive Plan; and before they do that, they cannot vote on a Motion to make a change. Mr. Brody asked if this could come back before the Board again, and Ms. Kirk stated it can. She stated if Capstone still believes that the property is such that it requires Residential, they have an avenue available to go to the Zoning Hearing Board to seek a Variance.

Mr. Benedetto stated on November 16 the Board could have voted on the Comprehensive Plan update, advertised it, and then added it to the Agenda on December 21 and approve it; however, three of the Supervisors did not want to do that and advertise it so he does not see how they could now put it back on the Agenda. He added that Mr. Dwyer is free to go to the Zoning Hearing Board to try to get a Conditional Use or ask the Board to put it back on the Agenda.

Ms. Reiss stated she feels they need to look at the Comprehensive Plan as a group with the Planning Commission and look at the different parts and say whether they should make these changes or not. She stated they are not doing their due diligence if they do not look at all the O/R District which is a large area and not just these fourteen acres. She stated the O/R District has caused them a “lot of traumatic pain” in parts of it over the past few years which is why they decided to re-do the Comprehensive Plan; and if they do not review it properly, they are not being fair to the people who live here. Mr. Dwyer stated it is also not fair to the developers; however, Ms. Reiss stated while she agrees, the Board must first think of the people who live here before anyone new comes in to develop.

Mr. Brody stated he was originally against the project and felt it should be Retail; and he and Mr. Dwyer discussed it. He stated across the bridge they have built age-restricted housing so the last few years of their lives there could be apartment buildings that could be rent and Shady Brook Farms might be able to expand their grocery store, and they could develop on the other side of the bridge.

ECONOMIC DEVELOPMENT COMMISSION'S ANNUAL COMMUNITY UPDATE

Mr. Tom Conoscenti was present from the Economic Development Commission which has a dual mandate from the Board of Supervisors to advise the Board on issues having an economic impact and also to suggest initiatives that will enhance the economy of the Township while sustaining the quality of life. He stated they have had a stable membership on the Economic Development Commission for the last several years, and he appreciates their efforts.

Mr. Conoscenti stated the Commission has an advisory role to the Board and makes recommendations, and they are also a resource on economic matters within the Township. He stated tonight he will discuss their current projects, activities, and priorities. He stated one of their projects is to gather and present information on the trends of current and forward-looking economic activity in the Township; and wherever possible promote active participation by resident volunteers. He stated they had three main projects this year which were the business survey, the economic activity heat map, and the update to the map project.

Mr. Conoscenti stated the business survey is their forward-looking project, and they ran another survey from May through June this year; and he thanked Mr. Fedorchak, Ms. Barbara Ellison, and the Bucks County Planning Commission for their help with this project. He stated they can put the compiled results on the Township Website if the Board wishes. He stated they were most pleased with the fact that they received a 26% response from the businesses in Lower Makefield Township which is outstanding. He stated this year they gave the businesses an opportunity to respond either with a print copy or on-line. He stated a new question they asked this year was if they were interested in joining or forming a Lower Makefield Business Association, and slightly over half responded that they were interested. Mr. Conoscenti stated they also asked what the Township could do to support their businesses, and he provided to the Board supplemental information on the numerous responses they received. He stated last year a theme from a lot of the comments was praise for the importance of the network of highways, road conditions, and the transportation network to the businesses. He stated this year

a number of businesses requested changes to the Sign Ordinance. Mr. Conoscenti stated 30% of the businesses indicated that they plan to expand within the Township over the next three years. Mr. Conoscenti stated when asked why they chose Lower Makefield they indicated it was proximity to the markets, their customers, and transportation. Mr. Conoscenti stated one question was how they would describe the business climate, and they received a very strong response and the businesses within the Township feel good about their activity and presence in the Township. He stated they listed a range of attributes felt to be important to the businesses and the most important were access to highways, parking, quality workforce, the absence of an Earned Income Tax, and the community's appearance. He stated they also asked if they would recommend Lower Makefield as a place to do business, and 97% indicated they would.

Mr. Conoscenti showed a copy of the Economic Activity Heat Map which was simplified from last year. He stated the number of Building Permits issued this year was the highest in the last fifteen years which indicates the residents and businesses are willing to invest in their property in the Township. He stated the Real Estate Transfer Tax was up even more than the previous year. He stated the market value of the properties and the assessed value went up four tenths of a percent this year and last year so it is very stable.

Ms. Reiss asked if there has ever been a study as to why businesses and restaurants chose to locate in Newtown or Langhorne as opposed to Lower Makefield. Mr. Conoscenti stated the questions they asked were what attracted the businesses to come to Lower Makefield.

Mr. Conoscenti stated the Committee is also working on the map update project. He stated this print map of the Township is supported completely by ads from local businesses, and was first done by the Economic Development Commission in 2009. He stated there are none of those maps left so they have undertaken an update, and the marketing company working on the project sent out letters on Township letterhead at no expense to the taxpayers of the Township. He stated they are producing 10,000 copies of the updated version of the map. Letters were mailed out to 2,800 entities in the Township and the immediate surrounding adjacent areas; and the marketing company which is working with the Committee stated that in the first few weeks the response for ads and commitments from the Township businesses exceeded their greatest expectations. He stated they appreciate the support of the businesses in the Township. He stated they also had talked with the Electronic Media Advisory Committee; and as part of changing the Township Website, they hope to have in place an interactive map of the Township with businesses which will be a viable, active, and a current resource for residents and

businesses. Mr. Conoscenti stated they expect the map to be done in December or January. He stated the business that have ads will get copies, and the Township Office will get approximately 3,000 copies for distribution to residents who want them.

Ms. Tyler stated she feels they have given the businesses an outlet for a voice, and therefore they have a better opinion of Lower Makefield Township.

Mr. Benedetto stated he would like to see a Business Association formed similar to what Newtown and Yardley have. He stated there was in the past a “Meet and Greet,” and he feels this should be revitalized since some of the small businesses have indicated they feel isolated and do not have a lot of contact with other businesses in the area. Mr. Benedetto stated Mr. Lewis has been a supporter of economic development. Mr. Lewis stated he agrees this is a potential opportunity for the Township to bring together the businesses. He also stated he feels once the map update is done, they should put together a pitch deck so we can make the case for why you should want to move your business to Lower Makefield.

Mr. Lewis stated they have been uncovering a number of businesses through the Fire Registration process; however, the marketing company uncovered a number of businesses that the Township did not know were in Lower Makefield. Mr. Conoscenti stated the number of businesses that have made themselves known to Lower Makefield is approximately four hundred, but when he was working with the vendor on the maps they found that there were well over 3,000 on this side of the River, and they feel there were 2,800 in 19067, Washington Crossing, parts of Newtown, Morrisville, and Falls. Mr. Lewis stated they are looking at 19067 and the Newtown Zip Code so that hopefully they get all the businesses in those Zip Codes and then take out the ones that are Lower Makefield versus Yardley or Lower Makefield versus Newtown.

Mr. Benedetto stated Edgewood Village is something that will hopefully be taking off soon; and in looking at some of the current Ordinances specific to that area because it is an Overlay District, he feels that the Economic Development group and potentially Zoning should look at that since there are a lot of restrictions about even temporary signage. He stated since this is going to be the primary Commercial District they should look at this as an opportunity to build that up.

Ms. Tyler stated HARB would be the approval process for Edgewood Village signs, and they have been proactive in reaching out to Edgewood Café and the Cigar Barn to get their temporary signs down, and both permanent signs have been approved and are going on. She stated HARB is looking for a common theme that ties the Village together. She stated HARB is a great group, and she is sure that they would be happy to hear from the Economic Development Committee.

Mr. Benedetto thanked Mr. Conoscenti and the Committee as well as Mr. Lewis, their liaison, for the work they are doing.

QUIET ZONE UPDATE

Mr. Eisold stated the construction work has been completed at the Heacock Road and Stony Hill Road crossings. He stated the work on the Edgewood crossing is scheduled to start on Wednesday, November 9, with completion in early December. He stated the Quiet Zone includes all three crossings and cannot be officially opened until all the work is done at all three crossings. He stated after the work is done a Notice of Quiet Zones establishment letter will be sent to all agencies with a time period that the Quiet Zones be opened at least twenty-one days after that letter is sent to the agencies. He stated the Township has received a number of calls already some of which were forwarded to him, and he has explained that to them as well as providing to the Township something to be put on the Township Website on this update.

Mr. Benedetto stated he has seen some comments about the Stony Hill Road crossing asking if this is what it is going to look like as there were concerns about aesthetics. Mr. Benedetto asked if this is what it going to look like, and Mr. Eisold agreed it is. He stated Stony Hill Road is different from the others as they did not have a lot of right-of-way there to do the improvements they had to do. He stated at the other locations, they have more space. Mr. Benedetto stated this is not what he thought the Quiet Zone was going to look like. He stated he does not feel it aesthetically looks right, and it is not appealing. He stated he also does not like the signage. He stated community feedback has not been positive on this crossing.

Ms. Reiss stated her concern is with safety, and Stony Hill Road is a difficult road to drive on anyway. Ms. Tyler stated this was engineered and reviewed and approved by SEPTA, CSX, and others; and the Plan would not have been approved if were not safe. Ms. Tyler stated she lives close to this crossing, and what has been constructed is exactly what she felt it would look like since Mr. Eisold shared the Plans with the Board early on. She stated while it not be visually appealing, it will be appealing to their ears.

Mr. Eisold stated Stony Hill Road had size constraints; and as you drive through there now it does feel constricting, and this will actually slow the cars down more than it will at the other crossings. Mr. Eisold stated he will look at the signs again, but he feels they are standard for what needs to be said.

APPROVE EXTENSION REQUEST OF KAPLAN TRACT PRELIMINARY/FINAL MINOR SUBDIVISION PLAN

Ms. Tyler moved, Mr. Fritchey seconded and it was unanimously carried to approve the Extension request of Kaplan Tract Preliminary/Final Minor Subdivision Plan to February, 2017.

ZONING HEARING BOARD MATTERS

With regard to the Keith Yantes Variance request for property located at 1709 Grandview Drive in order to permit construction of in ground pool, hardscape, deck, and cabana resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Lower Makefield Township Variance requests for the Snips Tract located at the northwest and adjacent to the intersection of Dolington and Quarry Roads in order o permit construction of an athletic field complex resulting in encroachment into special setbacks along arterial and collector streets, it was agreed that the Solicitor should participate. Ms. Kirk stated she understands Mr. Eisold and Mr. Fedorchak will be attending that meeting.

Ms. Kirk stated the Board met in Executive Session at 6:30 p.m. to discuss potential amendments to a Stipulation by way of a Settlement Agreement that had been filed through the Court of Common Pleas of Bucks County in the issue involving the Matrix Development in 2006. She stated there is a potential for one of the developers to request amendments to that Settlement Agreement and the Board was reviewing the potential issues and course of action they would like to take.

SUPERVISOR REPORTS

Ms. Tyler reiterated the great event hosted by the Historic Commission at the Slate Hill Cemetery, and added hopefully they have enticed some people to become members of the Historic Commission. She stated their next project is to start amassing objects and artifacts to adorn the Community Center.

Mr. Fritchey stated the running/walking/biking 1 K track through the Arboretum at Memorial Park has been installed. Mr. Eisold stated there were some minor punch list items that needed to be done, and it is now complete. Mr. Fritchey stated approximately sixty additional trees from Phase III and the balance from Phase II are expected to be planted next week, and they are in the area where the track is.

Mr. Fritchey stated the Veterans Day Ceremony and Parade will be this coming Sunday, November 6 beginning at 1 p.m.

DISCUSSION OF SIGNAGE WORDING FOR COMMUNITY CENTER

Mr. Fedorchak stated he wanted the Board to start thinking about this. Ms. Reiss stated when Macclesfield was named they put it out as a contest, and children as well as adults made suggestions. She stated she feels they could do this for the Community Center as well. Ms. Tyler stated she felt that was a good idea, and she added she also has a short list of some suggestions. Mr. Lewis asked if there would be limitations on seeking a corporate sponsor, and he stated he feels they should consider this. Mr. Benedetto stated he prefers “Community Center of Lower Makefield Township,” but he agreed they could open it up to the community for suggestions. He stated he does not feel naming it after someone such as a prior Board member would be a good idea. He stated having a room dedicated to the Seniors or people who have been very involved would be appropriate. Ms. Reiss stated unless it is a historical name she does not feel it should be named after a particular person since there have too many people who have been involved in getting this together.

There was further discussion about a corporate sponsor; and Ms. Kirk stated because funds were acquired through a Grant, she would like to check the language to make sure they would not be in violation if they were to have a corporate sponsor. Ms. Kirk stated they could go back to a prior name for this area. Ms. Reiss stated this would be a good place to get the historical people involved. Ms. Tyler stated they could also try to be consistent with the Pool which is known as “The Pool.”

APPROVE BOND RESOLUTION

Mr. Lewis stated they have to pass a Bond Resolution that covers how they handle bond proceeds and make sure that they abide by tax law and how they allocate the funds from the Bond. Mr. Lewis stated he understands the Township Manager has a draft for that. Mr. Fedorchak stated their Bond Counsel, Bucky Closser, prepared this for the Board and has asked the Board to adopt it this evening as he has a final package of information that he needs to put together for Friday; and on Tuesday, they will be securing the \$15 million.

Mr. Fedorchak stated the Township has to comply with the requirements of various Federal and State laws and the covenants of the Bond documents themselves. He discussed the IRS regulations as they relate to post-issuance compliance. He stated the Resolution states that the Township Manager or its designee is responsible for the compliance provisions. Mr. Fedorchak stated he will be designating the newly-appointed Finance Director to follow through with all of this. He stated there are also things they have to do in terms of notification. He stated they also have to state the purposes for which this money will be applied and to make sure that in fact happens. He stated another requirement is that five years hence there has to be a report filed that needs to detail everything they have done with the money, and they need to have a detailed reporting system in place which the Finance Director is prepared to do. Mr. Fedorchak stated it will also speak to the investment of the money and arbitrage considerations, etc.

Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously carried that the Board approve the proposed Bond Post-Issuance Procedures as provided by the Township's Bond Counsel.

APPROVAL OF RESOLUTION RELATED TO THE DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

Mr. Fedorchak stated there are two Resolutions prepared by Ms. Kirk both of which deal with construction of a small building by the Delaware River Joint Toll Bridge Commission and the Scudders Falls Bridge renovation. He stated as part of that it is necessary for them to construct a four-story structure to serve as a general operations facility. He stated this is not to be confused with the headquarters/administrative offices that they intend to construct on what used to be the Township's Park & Ride lot which is now their Park & Ride lot. Mr. Fedorchak stated the primary purpose for this particular building being discussed this evening is to house equipment, circuitry, and computers that will be in support of their all-electronic toll collection system that will be installed in the southbound lane.

Mr. Fedorchak stated the first Resolution is to establish a Professional Services Agreement. Ms. Kirk stated this was adopted by the Sewer Authority. Mr. Fedorchak stated this is a Professional Services Agreement with the Delaware River Toll Bridge Commission which will allow the Township to recoup engineering and legal fees which are necessary for the inspection, design, etc. for this small building. Mr. Fedorchak stated this is similar to what they normally do in the process of a Land Development Plan; but since the Commission is exempt from that process, Ms. Kirk has constructed this Agreement which has been approved by the

Sewer Authority and will allow the Township to recoup those fees. He stated it also states that the Commission has to establish an Escrow Fund in the amount of \$18,500, and he has received a check in that amount.

Mr. Lewis stated while the structure is relatively small, it is high; and Mr. Fedorchak agreed it must be high because it feeds into the cameras that are on the southbound lane. Mr. Lewis asked if there are any drawings; and Ms. Kirk stated there are not of the actual tower, but the Sewer Authority engineer has received Site Plans for the sewer connection although she has not seen any actual Plans. She stated she does not feel they were submitting Final Plans for the building until some of these underlying issues were resolved one of which was the connection for the one EDU. Mr. Lewis stated when they looked into this project previously, this was not part of the visual elements they saw. Ms. Kirk stated because of the Commission's authority, they can do this. Ms. Tyler stated they are just assuring that the Township is reimbursed for professional services. Ms. Reiss asked if they are removing trees for this, and if they are going to buffer it. Mr. Fedorchak stated he does not believe so. He added the footprint is not that great.

Ms. Kirk stated besides the Professional Services Agreement that will add the funds in escrow for the Township's review of the sewer work, the Commission also signed a proposed Tap-In Fee Agreement which she created and was approved by the Sewer Authority at their last meeting. Ms. Kirk stated she prepared a Resolution for the Supervisors to approve and accept the Tap-In Fee Agreement and authorize representatives from the Board to sign off on the Tap-In Fee Agreement so there is a clear record that it went through the Authority and went up to the Board.

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Resolution on behalf of Lower Makefield Township for the approval of the Tap-In Fee Agreement between the Municipal Authority of the Township and the Delaware River Joint Toll Bridge Commission for the Scudders Falls Bridge Project.

APPOINTMENTS

Mr. Benedetto moved and Ms. Reiss seconded to appoint Stephen Heinz to HARB.

Mr. Benedetto stated he has worked with Mr. Heinz in the past, and he is definitely qualified. He stated they have two vacancies on HARB; and when they have advertised, they have not received any other Applications. He stated Mr. Heinz interviewed in June.

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Ms. Tyler stated the current members on HARB are working very well together now, and she cannot support Mr. Heinz coming back on that Board. She stated other Supervisors could speak to her about this if they have questions.

Mr. Benedetto stated he was liaison to HARB previously; and he knows that Mr. Heinz had strong opinions, but there are two vacancies, and he does not feel they should turn people away who want to volunteer particularly as he is qualified for this position.

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

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

Respectfully Submitted,

Kristin Tyler, Secretary