

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – MAY 3, 2017

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 3, 2017. Mr. Fritchey called the meeting to order at 7:40 p.m.

Those present:

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

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

Absent: Kristin Tyler, Board of Supervisors Chair

MOMENT OF SILENCE FOR DISTRICT MAGISTRATE MICHAEL BURNS

A moment of silence was called for by Mr. Fritchey in memory of District Magistrate Michael Burns who passed away last week. Chief Coluzzi stated Judge Burns was well respected and worked well with those in law enforcement. He stated he was very concerned about all the residents of the Township and the people that came before him. Chief Coluzzi reviewed his education and experience. He stated he will be sadly missed

DISCUSSION REGARDING PUBLIC COMMENT

Mr. Fritchey stated typically at the Board of Supervisors meetings they start with Public Comment when people present issues that merit discussion and consideration; however, sometimes the Board tries to deal with them on the spot without considering if they have complete information on the issue including discussion with the Township Administration and the various Township Advisory Boards which he feels helps the Board make a better decision. He stated the first two items on the Agenda were raised during Public Comment during previous Board of Supervisors' meetings that have been considered in the interim, and they will consider these items before they proceed with Public Comment this evening.

PRESENTATION ON GERRYMANDERING

Ms. Andrea Kalb, Fair Districts PA, was present and stated Fair Districts PA came out of the League of Woman Voters who wanted to tackle some of the gerrymandering abuse that was going on in Pennsylvania. She reviewed some terms involved including reapportionment which is the State-by-State allocation of the 435 seats in Congress. She stated they need to know how many people are in each State to know how many Representatives they will get, and she stated they are reallocated every ten years. Ms. Kalb stated redistricting is redrawing the boundaries of the State Senate Districts, State House Districts, and the Congressional Districts; and in Pennsylvania the political parties redraw those boundaries. She stated currently in Pennsylvania to draw the local lines, there is a five-person Commission including the majority and minority leaders from the Senate, the majority and minority leaders from the House; and then they try to appoint a Chairperson, although it is generally sent to the State Supreme Court who then puts in someone that favors a particular Party. Ms. Kalb stated the Commission is supposed to have Districts that will be composed of compact and contiguous territory; however, this does not usually happen. Ms. Kalb stated most people believe that the voters choose their Legislators; however, it is the Legislators who choose their voters because of gerrymandering.

Ms. Kalb reviewed the history of gerrymandering and the impact of gerrymandering which distorts the Election results. She stated it results in fewer choices in the Primary and often no choice in the General Election.

Ms. Kalb stated Fair Districts is supporting an independent Redistricting Commission with public participation, a strict timeline for completion, and addressing other issues of Districting unfairness. She reviewed the qualifications for those who could serve on the Commission. She noted the Bills currently being considered in the House and the Senate as well as those who have already signed on. She reviewed how an Amendment gets in and the approximate timeframe.

Mr. Fritchey stated the effects of gerrymandering are obvious. He stated Congressman Brian Fitzpatrick together with other Republican and Democratic Congressmen have introduced a bi-Partisan Resolution in the House of Representatives calling on Congress to commit to the removal of political gerrymandering from the Congressional redistricting process as a crucial step to restoring public confidence in the electoral system. Mr. Fritchey stated he represented Lower Makefield at the PSATS Conference a few weeks ago, and there were Supervisors from all over the State of Pennsylvania, and they unanimously passed Resolution 17-53 against gerrymandering. He read the Resolution into the Record. He stated there is widespread by-partisan support for doing something about gerrymandering which produces and preserves career politicians, promotes

hyper-partisanship, and political gridlock that keeps the Nation's problems from being properly addressed and solved, adding it is toxic for Democracy and bad for the future of America.

APPROVAL OF RESOLUTION NO. 2339 IN SUPPORT OF A CITIZENS COMMISSION FOR LEGISLATIVE AND CONGRESSIONAL REDISTRICTING

Mr. Fritchey moved and Mr. Lewis seconded approval of Resolution No. 2339.

Ms. Reiss thanked Ms. Kalb and others who brought this issue to the Board.

Mr. Benedetto asked that Ms. Kalb clarify the power of the Secretary of the Commonwealth, and Ms. Kalb noted the way the summary was written made it seem like the Secretary of the Commonwealth determined the criteria that the Applicants would have to meet; and this is incorrect. She stated the criteria is set in the Amendment and will allow for further laws to be passed that can also determine the criteria. She stated the Secretary of the Commonwealth is really just there to oversee the process. Mr. Benedetto stated he is in support of this being changed as it is currently a broken system. Mr. Benedetto stated he understands that there is a computer system that has been used in some areas to redraw lines in a more fair, non-partisan manner. Ms. Kalb discussed different technologies that can be used. Mr. Benedetto stated he hopes that there are people who are truly independent citizens who are devoid of political motivation of partisanship interested in serving and using the technology. Ms. Kalb stated there has been a lot of citizen engagement which she feels will continue so that the Parties do not succeed in corrupting it.

Mr. Harold Kupersmit, 612 B. Wren Song Road, stated what sets the Lower Makefield Township Board of Supervisors apart from the Pennsylvania Legislature and the U.S. Congress is when the residents come with a legitimate problem, the Board tries to solve their problem.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, thanked the Board for putting this on the Agenda. Mr. Benedetto asked if Mr. Costello would consider being on the Commission, and Mr. Costello stated he would consider it.

Motion carried unanimously.

PRESENTATION ON THE CIRCUIT TRAILS NETWORK

Mr. Ken Boyle was present. Mr. Fritchey stated Mr. Boyle was present at the last Board of Supervisors meeting, and during Public Comment he raised the issue of the Circuit Trails in southeastern Pennsylvania.

Mr. Boyle stated Bike Bucks County is the volunteer arm of the Bicycle Coalition of Greater Philadelphia which is responsible for the same area as the Delaware Valley Regional Planning Commission. He stated they advocate for on-road and off-road bicycle trails around destination points. He stated they also look to implement bicycle plans at the local Municipal level, and they feel local residents should decide where a trail or an on-road facility should go. Mr. Boyle stated his group also does a lot of education targeting Fifth Graders, and also give away bike helmets. Mr. Boyle discussed the importance of trails in general. He stated he feels Lower Makefield could be made better by connecting the trails they have and connecting to surrounding Municipalities. He stated he did provide the Supervisors with a link to the Newtown Township Plan which is quite impressive.

Mr. Boyle stated the Circuit is a coalition in the nine-County area which is a series of trails that are built and those that are planned. He stated there are approximately 750 miles have been planned and approximately 350 miles have been built. Mr. Boyle discussed the trails in Bucks County which are proposed for next year – the Upper Bucks Rail Trail around the Quakertown area, and they are beginning the Newtown Rail Trail in Southampton with the first 2.2 miles proposed to be built by next spring since the money has been allocated to do that.

Mr. Benedetto stated he understands that Northampton did not go forward with the trail in their Township. Mr. Boyle stated there are five Municipalities involved in this, and Upper Southampton has approved that it be built. He stated the other four are Northampton Township, Middletown Township, Newtown Township, and Newtown Borough. He stated the County made a presentation to all of them in 2016, and four of them approved it; however in December, Northampton voted against a feasibility study so this is on hold. He stated he feels the County would do it; however, it would require those Supervisors to come back in.

Mr. Boyle showed a slide of a conceptual map of the nine-County area showing what exists and what is planned. He showed the portion of the Circuit that would be in Lower Makefield which involves the Delaware Canal State Park. He reviewed the route he would have to take as a resident of the northern part of the Township to bike to the Pool. He noted the importance of the Municipalities working together to connect the trails. He showed slides of the existing and proposed Rail Trail.

Mr. Boyle discussed the changes taking place in the State of Pennsylvania regarding on-road bike lanes. He stated they should consider this particularly when there are trails that go for some distance, and then there is a short distance where they do not have a right-of-way; and the bike lanes would be possible. He stated DVRPC has allocated \$500,000 to do some testing in District 6 of PennDOT, although there is not a Bucks County trail that has been proposed; and if nothing is proposed, you cannot get a Grant. He stated the bike lane would only require some paint, and he feels the County Planning Commission would be willing to work with Lower Makefield on this.

APPROVAL OF RESOLUTION NO. 2338 ENDORSING THE COMPLETION OF THE CIRCUIT TRAIL NETWORK IN THE GREATER PHILADELPHIA AREA

Ms. Reiss moved and Mr. Benedetto seconded to approve Resolution No. 2338 which she read into the Record. Motion carried unanimously.

PUBLIC COMMENT

Mr. Leo Cohen, 246 Johnson Way, Regency at Yardley, was present. He asked if a Toll Bros. representative was present, and was advised that he was. Mr. Cohen stated there is an environmental issue that exists at Regency that he is vitally concerned about. He stated at Regency there are at least three detention basins that are being polluted by Toll Bros. He particularly noted the one by Oxford Valley Road where garbage is building up because the Toll workers building the houses do not put the garbage in the trash cans. Mr. Cohen also stated those who are mowing the grass are mowing the grass into the pond, and this is further polluting it. Members of the audience indicated the name of the company mowing the grass is Autumn Hill. Mr. Cohen stated he has written letters to the individual in charge at Regency at Yardley, Sara Gayle; and he has received notes back that the garbage will be picked up, but he feels unless it is done on a daily basis and the mowers are not permitted to mow the grass into the pond, they are going to lose a resource. He asked that the Township put pressure on Toll to police these areas.

Mr. Fritchey stated he feels that Toll Bros. would not approve of what Mr. Cohen is saying is taking place. Mr. Fritchey asked if Autumn Hill is a subsidiary of Toll Bros.; however, Mr. Truelove stated Autumn Hill is a landscaping company located at Yardley-Langhorne Road. Mr. Jim Kniele, Project Manager for Toll Bros., stated Autumn Hill is the landscaping company that was hired by the Homeowners' Association. Ms. Reiss stated she understood that Toll Bros. still owned the Homeowners' Association until it was dedicated so she assumes that while Toll Bros. may not have hired Autumn Hill, they hired the person who did hire

Autumn Hill; and Mr. Kniele agreed. Mr. Kniele stated a homeowner from Regency who also contributed to the award process is present this evening as well. He stated there is a lot of production going on in the development currently, and he does send laborers there every Friday and Monday to clean up the basins; but unfortunately things do get blown into the basins. Ms. Reiss stated it was her understanding that they are required to put construction debris into dumpsters. Mr. Kniele agreed but added that sometimes debris does blow out of the dumpsters. Mr. Fritchey stated he feels Toll Bros. and the representative from the Homeowners Association should contact those doing the grass cutting to ameliorate the problem. Ms. Reiss asked that they also do something about the construction debris.

Ms. Lisa Baxter, 208 Arborlea, stated she would like to propose two separate Resolutions. She stated the first one is with regard to fracking of the Delaware River Basin. She stated there was a seven-year moratorium, but that moratorium has been threatened; and several Townships have already passed Resolutions including Upper Makefield, Wrightstown, and Newtown. She provided a copy of the sample Resolution and a summary. Mr. Fritchey stated he feels it would be appropriate to refer this to the EAC to have them look into it and report back to the Board of Supervisors. Ms. Baxter stated the second Resolution is with regard to the PennEast Pipeline since if they proceed with the proposed alternative route, it will cut through a part of Lower Makefield between Mt. Eyre Road and Woodside Roads close to the Garden of Reflection. She stated she has a sample Resolution of this as well.

Mr. Benedetto asked Ms. Baxter for an update on Elcon; and Ms. Baxter stated nothing has changed since Elcon submitted their Application, and they are in the 90-day administrative review period which means they are checking to see if they have everything before they start looking at it. She stated the period ends June 2, and the technical review period will then start.

Mr. Lewis stated with regard to the PennEast Pipeline when it was first reported that there was an alternative route being considered, he reached out to PennEast directly. He stated prior to that they had not contacted the Township about a proposed pipeline within Township limits. Mr. Lewis noted that there is an existing pipeline that goes through Memorial Park. Mr. Lewis stated after speaking to PennEast directly, he understands that they have no plans to execute the alternative route; but they were required to do that by FERC (the Federal Energy Regulatory Commission,) and they created that alternative route. He stated despite that issue having made significant press, it is not currently being actively sought by PennEast though Lower Makefield. He stated had that been the case, the Township would have been very aggressive in dealing with them. He stated he placed his e-mail exchange and call sequence on Facebook. Ms. Baxter asked if they are going to withdraw it. Mr. Lewis stated they were forced to create an alternative plan

by FERC. Mr. Lewis stated he knows that there are a number of groups that continue to push that the alternative is a legitimate alternative, but it is not. Ms. Baxter stated it is because it is still a threat. Mr. Lewis stated he wants to make sure that everyone knows that the Township aggressively looked into this, and this is not something that is a significant immediate situation for Lower Makefield. Ms. Baxter stated she feels this would be a preventative Resolution since they have proposed this as an alternative route.

Mr. Fritchey stated he feels Mr. Lewis has indicated that this is not an imminent threat, and they do not want the residents to get concerned over something that is not likely to occur; and Ms. Baxter stated she feels this is fair.

Ms. Baxter agreed to provide just the information on the fracking Resolution to the Township.

Ms. Chris Gray-Faust, 1509 Dolington Road, stated she lives across the street from the Snipes Tract. She stated she understands this issue is scheduled to go before the Planning Commission on Monday. She stated the last time there was a Planning Commission meeting on this matter, it was closed down; and they did not get all their concerns on record. Ms. Faust stated she and her husband understand the Township owns the land, and that there will be development on the land although they will miss the woods and animals that are there now. Ms. Faust stated she sent the Board members an e-mail today and will send one to the Planning Commission members as well outlining their concerns as residents who live directly across from this land. She stated they have a Township culvert on their property that flows directly into Brock Creek; and during excessive rain storms, the culvert puts water into the creek which rises and overflows. She stated the creek runs parallel to their house; and they are concerned that if proper engineering is not done on the Snipes tract, they will suffer flooding into their house. She stated they understand that the Environmental Advisory Committee had issues with the drainage and sent a letter to the Board in January, and they want to make sure all of the questions they raised are answered. She stated they also understand that some people are seeking a Waiver to the Environmental Impact Assessment which is normally done in these cases, and they are asking that for this project everything be done including the Environmental Assessment Impact Study and that a second engineering opinion be given. She stated they do not want their private property damaged because of lack of Township oversight or bad engineering. Ms. Faust stated they would prefer that this issue be moved from the Planning Commission meeting on Monday until all of these questions are answered and until the study is done.

Mr. Fritchey advised that a second engineering review is almost completed, and they do not want to cause anyone any undue impact that can be avoided. He stated he feels people are looking into engineering solutions to make sure that the run off issues are being addressed. He stated he expects that they will have the meeting at the Planning Commission on Monday, and he expects that everyone will have the opportunity to speak. He stated he understands that at the last Planning Commission meeting when this was discussed, it evolved into a certain amount of disorder; and he hopes that they will be able to have a reasonable discussion on Monday where the interests of everyone can be considered and accommodated to the maximum extent possible.

Ms. Kathleen Hirko, 1450 Dolington Road, stated with regard to the Snipes proposal she is not against athletic fields; and she reviewed her family's involvement in athletics. Ms. Hirko stated she is concerned about the Waiver for the Environmental Impact Study, and she requested that the Board of Supervisors reconsider waiving it before proceeding. She stated after the Sandy Run issues, the community has the right to question Boucher & James' engineering practices. Ms. Hirko stated many residents feel that by eliminating the small field and skate park and planting the field with evergreens this would address noise and light pollution and will also help with stormwater issues. Ms. Hirko stated many residents have also expressed interest in a longer walking trail as well.

Mr. Scott Burgess, 15 Glen Drive, stated the drug problem has become an epidemic in our Country. He reviewed alcohol and drug abuse statistics including problems in Lower Makefield. Mr. Burgess asked for the Board's support and participation in organizing a Town Hall meeting to provide information to the community on how to best protect our families from having to experience the tragedy he did when he lost his son to an overdose. He would like to continue to discuss this with the Board over the next few months. Mr. Burgess stated he has been a member of Christian Life Prison and Recovery Ministries for the last ten years; and if anyone would like information or needs help with a problem, they can go to www.clprn.org or e-mail him at lmtod1010@gmail.com.

Mr. Fritchey thanked Mr. Burgess for his comments, and he stated he agrees that what Mr. Burgess has stated is true and that there is an opioid epidemic throughout the Country partly created by doctors who promiscuously prescribe pills. Mr. Fritchey asked that Mr. Burgess partner with Chief Coluzzi on his proposal to provide the outreach he has discussed most likely to take place in the fall.

Chief Coluzzi agreed to work with Mr. Burgess to put something together for the residents. Ms. Reiss stated those who have leftover pain pills they have not used, they should not save them; and they should be turned in at an appropriate location.

Chief Coluzzi stated they do have a drug take back box in the lobby at the Police headquarters downstairs for drugs other than liquid or syringes. He stated pills can be dropped off at any time.

Mr. Phil Bartholomew, 1488 Brookfield Road, stated he is concerned about the expansion of Memorial Park. He stated residents in the area want this to continue to be a passive park as it was never intended for organized sports activities. He stated if they are going to build tennis courts, he hopes that they will not be lighted.

Mr. Fritchey stated it was not intended to be lit up. He added they had a significant number of meetings regarding this Park with significant input from those who resided in the area at the time when the Park was being planned. He stated the part of the Park where the tennis courts are planned was planned for tennis courts when it was originally discussed. He stated the part of the Park nearest the residences going toward the east was going to be an open area where there would be an area for individual physical exercise, and that Plan has been resurrected almost in mirror image under the current Plan. He stated they propose to build a road across the intermittent stream so that people can access the area. He stated they are also discussing a parking area and some low-intensity lighting for vehicle parking. He stated they are also discussing another playground for larger children with greater abilities than those using the Secret Garden and also a pavilion with cooking facilities so that people could have family and group cook outs as well as some low-intensity picnic activities such as horseshoes and bocce. He stated they are also talking about have an extensive trail path, and they have built a new running/ bicycle path which is a 1 kilometer path where children can learn to ride a bike. He stated it is also a good place to run, and they will line it with paved markings as to distance. He stated they are also discussing extending the trail system over to the east end of the Park. He stated along the trail system they will have individual exercise stations.

Mr. Fritchey stated the Township has applied for a Grant to the State in the amount of \$250,000 which will be matched by \$250,000 from the Township to complete the Park. He stated this will be semi-passive/semi-active activities which is almost identical to what was talked about twenty years ago. He stated they are not proposing to turn it into an athletic complex or have lighted tennis courts.

Mr. Tony Kehoe, 476 Liberty Drive, asked for an update on the silt pile tract. Mr. Truelove stated he contacted the Heritage Conservancy and Lynn Bush at the Bucks County Planning Commission; and the plan is to hopefully get them both to a public meeting at the Township to discuss potential plans for preserving this as open space. He stated they may also reach out to other entities as well. Mr. Truelove stated he hopes that they will be able to have this public meeting probably in September.

Mr. Kehoe stated with regard to the stormwater management at the Snipes Tract, there is a 45' drop on the parcel, and a storm can generate a significant amount of power when it drops 45' so it would have an impact on those who live below Snipes if the stormwater is not handled correctly. Mr. Kehoe stated the Township has residents who are civil engineers, and he asked that they let them review these Plans before the Board votes on them. Mr. Kehoe stated Ms. Tyler indicated there would be a special meeting for all the residents to attend to voice their concerns. Mr. Fritchey stated he believes that this matter will be on the Board's next Agenda and there will be an opportunity for everyone to speak. Mr. Kehoe stated he is asking that the residents be provided the reports and have the registered professional civil engineers in the Township be given two weeks to review them before the Board has their discussion on this.

Mr. Mike Brody, 509 Brookbend Court, provided pictures of the southernmost Fred Allan Softball field closest to Kol Emet, adding this field is across from his home. He noted an area where he would like them to fill in the gap with additional trees. He stated at Snipes they should start planting trees now since they know what the Plans are as that will help mitigate any light pollution. Mr. Eisold stated with regard to Snipes there is a full existing buffer that will stay around a majority of the site. He stated at Dolington there is nothing there currently, and the intent is to transplant some of the trees to be removed from the center portion of the site to provide a solid buffer along the edge of Dolington and to supplement that if necessary. Mr. Fritchey stated they could also ask the Township Manager and the Township engineer to see if trees from Snipes could also be transplanted to Fred Allan. Mr. Benedetto stated there is a Comprehensive Master Plan for trees at all facilities in the Township, and they should look into this as it relates to Fred Allan and Caiola fields as well as the Community Center. He stated trees should be put in place now rather than waiting for the fall to plant.

Ms. Kathleen Hirko, 1450 Dolington Road, asked that the residents who live in the area of Snipes be able to have the same extensive input that they gave the residents who live in the area of Memorial Park. Mr. Fritchey stated there have been a significant number of meetings on Snipes over the years starting at the Park & Rec Board many years ago. Ms. Hirko stated those who live there now have not had that opportunity. Mr. Fritchey stated they did have those meetings when the Plans for Snipes were developed. He stated there is still time to have input; and if there are things that are constructive and feasible, they can be looked into.

Mr. Lewis stated they can make their comments at the Planning Commission meeting on Monday which is a public meeting. He stated they also had a second engineer review the Plans. Mr. Lewis stated the Board of Supervisors has been discussing the Snipes Tract since July and at some point they need to execute the project. Ms. Hirko stated she does not feel any of the neighbors she has talked to are

asking to stop the project, but they would like to have input and to make suggestions they feel could make a huge difference. Mr. Fritchey stated there is still time for some fine tuning. Ms. Hirko asked if there is not an opportunity to discuss it other than at the Planning Commission, and Mr. Fritchey stated they will also discuss it at the Board of Supervisors meeting on May 17 when they will consider a vote on the Plan.

Mr. Lewis stated it will be a vote to go out for Bid for construction that would include the Base Bid and Bid Alternates; and they will address this again when the Bids come in to see what they can afford. Mr. Fritchey stated the Board of Supervisors has budgeted \$2 million for this project for 2017, but they will not know how far that money will go as it depends on how Bids come in which is why they have Bid Alternates.

Ms. Reiss discussed the Quilt Trail adding she would like to start the Bucks County Quilt Trail in Lower Makefield. Ms. Hirko stated she would like to have one on her barn and would also like to see one at Patterson Farm.

Mr. Jason Simon, 514 S. Ridge Circle, stated he is the PAA Commissioner. He stated PAA had their Opening Day and they honored Donna Liney who threw out the first pitch. He stated this was Ms. Liney's last Opening Day as the Park & Rec Director, and he thanked her for all the work she has done for the community. Mr. Simon also discussed the Peake Award, and this year the volunteer of the year was awarded to Doug Kimball. Mr. Simon stated he and Mr. O'Hara from YMS had a discussion after Mr. Burgess' Public Comment, and they would like to work with Mr. Burgess to help promote his cause as they have access to a significant number of youth in the Township.

Mr. Simon stated he totally agrees that any development that takes place in the community should be done properly including Snipes; however, he wants everyone to remember that they are serving the youth in the Township at these fields, and they need inventory in order to provide their programs. He stated there have been numerous meetings and a tremendous amount of work to get to this point with Snipes. He stated he agrees all voices need to be heard, but this has been in the public eye for years; and they would like to see this move forward as the sports programs are growing and new sports coming in need access to fields.

APPROVAL OF MINUTES OF APRIL 19, 2017

Mr. Lewis moved, Ms. Reiss seconded and it was unanimously carried to approve the Minutes of April 19, 2017 as written.

PRESENTATION BY TOLL BROS. AND MOTION ON THE BLACK MOLD ISSUES AT REGENCY

Mr. Fritchey stated this is an informational item. He stated residents have raised concerns about this issue and requests were made to Toll Bros. to have studies done, and they are here to listen to their report tonight. Mr. Fritchey asked Mr. Fedorchak if there is something distinctive about Regency at Yardley that makes it different from other Subdivisions. Mr. Fedorchak stated Toll Bros. has received approval for a private development; and when the development is finished, the infrastructure, roadways, and detention basins will not be dedicated to the Township rather they will remain the responsibility of Toll Bros. and ultimately the Homeowners Association once that is up and running. Mr. Fedorchak stated in most developments in the Township when the developer is finished with the completion of the infrastructure at some point all of those assets are dedicated over to the Township for perpetual maintenance so in that respect this development is different although it is not unusual. Mr. Fritchey asked when the first residential units were occupied, and Mr. Kniele stated he believes it was in 2012. Mr. Fritchey stated this development is set back from the northwest corner of the intersection of Big Oak Road and Oxford Valley Road.

Mr. Fritchey stated concerns were expressed by residents who came to the Township. Mr. Fedorchak stated there were a number of communications with the residents and Township Officials, and this was discussed at the November 2, 2016 Board of Supervisors meeting when a number of residents came and expressed their concerns to the Board of Supervisors about the mold and the possibility of a bacterium issue and asked for the Township's assistance in this matter. Mr. Fedorchak stated immediately after that meeting the Township contacted Toll Bros. and invited them to a future Board of Supervisors meeting to discuss the issue and address the residents' concerns. He stated one of many of the residents' issues was that at the time Toll Bros. was not agreeing to testing the substance that the residents were documenting was in their homes. Mr. Fedorchak stated a meeting date was set up for January; but shortly before that, the Township was contacted by Toll officials and they advised that they would move forward with testing. He stated Toll asked that the Township postpone the meeting until the testing was completed. Mr. Fedorchak stated this has been done and reports have been filed, and this evening they will hear from Mr. Kniele as to the results of the tests; and he believes that all this information has been shared with the residents. Mr. Fritchey stated the Township received a communication from Toll Bros. dated April 10, 2017 which included supporting documentation as to the testing they did. Mr. Fedorchak agreed and stated they have copies available this evening if needed.

Mr. Fritchey asked Mr. Fedorchak if the Township took any action prior to Toll Bros. agreeing to conduct the testing. Mr. Fedorchak stated the Township contacted the Bucks County Health Department and the State Department of Environmental Protection. Mr. Fedorchak stated with respect to the Bucks County Health Department their response was with regard to the water discoloration they indicated that does not always indicate contamination or issues with the water; and that Pennsylvania American Water Company was addressing those concerns for water quality under the Safe Water Drinking Act. He stated they also indicated that if there were any further questions, the Township should contact the DEP and that the Bucks County Health Department does not regulate Municipal water authorities and public water supplies and only usually get involved in those instances where there is a water main break or other confirmation of contamination and they have to address the licensed facilities involved. Mr. Fedorchak stated he contacted the Pennsylvania Department of Environmental Protection shortly after the November meeting and received a phone call from Mr. Andy Hartzell on December 23, 2016 who at the time was the Acting Regional Director for the State DEP. Mr. Fedorchak stated Mr. Hartzell indicated he appreciated the residents' concerns and he had talked to the Bucks County Health Department ; and DEP's position was that this issue was beyond their jurisdiction, and that they would not look into individual home problems or take any further action on this matter.

Mr. Fritchey asked about the Pennsylvania American Water Company; and Mr. Fedorchak stated while he has not talked to them directly, through conversations with the residents and information he has seen over the last several months, their position was that there was nothing wrong with the water although he feels that will again be addressed this evening. Mr. Fritchey stated Mr. James Kniele is the Toll Bros. Project Manager who is present this evening. Mr. Kniele introduced his Assistant Project Manager, Mr. Jeff Williams, who will be taking over as Project Manager for Regency at Yardley in a few months.

Mr. Benedetto stated this problem is not a recent issue, and it has been going on since 2012; and the Township has been aware of it, so he feels the timeline that was discussed beginning in November of 2016 is a "false narrative." He stated letters have been written by residents who have indicated that this has been an ongoing problem since they moved in. Mr. Benedetto stated to suggest that the Township does not have an obligation is "going down a dangerous road;" and while the Township may not have a legal obligation to do something about this, he feels these are Township residents and the Township should fix this in coordination with Toll Bros. Mr. Benedetto stated he has seen the Toll Bros. report, and he is appalled with the conclusions that were reached. He stated he feels something needs to be done, and the Township has an obligation to help resolve this problem.

Mr. Kniele stated he disagrees with Mr. Benedetto that Toll Bros. has been unwilling to help as Toll Bros. has spent a considerable amount of time, money, and energy on this matter. He stated the impetus of the problem is that some of the homeowners at Regency at Yardley have experienced black or pink stains in their bathroom and/or kitchen areas where there is high moisture content and high humidity. He stated a resident wrote a letter to the Toll Bros. CEO asking them to identify the foreign substance, assist them in determining its cause, and eradicating this foreign substance. Mr. Benedetto stated that letter was dated October 31, 2015 written by Mr. Kevin McHugh, and Mr. Kniele agreed.

Mr. Kniele stated Pa American Water supplies the water to Regency at Yardley, and Pa American Water has a handout called “discolored water” and it specifically mentions pink stains on fixtures. He read from the handout which discusses this substance which it indicates is a harmless bacterium that exists in moist, human conditions. He stated the handout recommends that it be cleaned with a commercial cleaning product. It stated it also specifically discusses black film on surfaces that can be found due to water softeners or plumbing, and that black slime is mold/mildew that thrives in moist or warm areas; and it indicates that black film can be removed by cleaning the area periodically with a commercial cleaning product that contains bleach.

Mr. Benedetto stated the handout speaks to pink slime being a bacteria, and Mr. Kniele agreed. Mr. Benedetto stated Toll Bros. did not do bacteria testing; however, Mr. Kniele stated they did and he reviewed the testing they did which was air and swab testing of the pink and black substances.

Mr. Kniele stated he feels if this information made it into the Pa American informational sheet, it is probably a relatively common problem. He stated in addition to providing this handout to the residents, they also had discussions with the Senior Operations Manager at PA American Water, and he agreed to take water samples three times weekly at five separate areas of the Regency development, and those samples came back that the chlorine residuals were strong; and that there is nothing wrong with the water supply. Mr. Fritchey asked if they were taken at five different residences, and Mr. Kniele agreed as well as at the fire hydrants and at the Water Treatment Plant. He stated a mixer was also installed at the water tower in 2015 which increases the chlorine. He stated Pa American encourages the residents to notify them if there are any issues with their water. Mr. Kniele stated he was advised by Pa American that only four service order requests were received concerning this issue over a three-year period. Mr. Kniele stated he feels that a minority of homeowners have experienced these issues, and Toll Bros. has looked into it.

Mr. Kniele stated they had an HOA meeting with the Water Quality Supervisor of Pa American in January, 2015; and as a result of that meeting, Pa American Water decided to expand the sampling area and continue testing. He stated they continued to test the water tower and they flushed the water lines to the development. Mr. Kniele stated there was also concerns expressed by the residents that the street sweepers were stirring up the lines when they took the water from fire hydrants, and Toll Bros. encouraged their residents to inform them if this was happening; and they received no further complaints about that.

Mr. Kniele stated Pa American also took ten samples from homes in the development although he does not have the results of those water samples. He stated Toll Bros. on their own hired DelVal Consultants to take water samples from eleven locations, five homes with residents in them, the model home, the club house, and four fire hydrants. Mr. Kniele stated the conclusion was that there were several contaminants in the water that are commonly found, all under the DEP drinking water standards which means that it was acceptable. He stated he made that report available as well as all other reports they have received since then. He stated those tests also indicated that the chlorine residuals were good in the development.

Mr. Benedetto stated he does not feel what they have done was done in a timely manner, and now that the Township got involved, they are doing the testing. He stated he feels Toll Bros. should have done the testing when it was originally requested by the residents eighteen months ago. Mr. Benedetto stated if there is a problem in the community, he feels Toll Bros. would have wanted to address it much sooner than when the Township got involved. Mr. Kniele stated the DelVal testing was done April 21, 2016. Mr. Kniele asked the date of the Board of Supervisors meeting that Mr. Benedetto is referring to that was after April 21. Mr. Benedetto stated the sampling report was April 21, 2016, but the mold testing was just recently. Mr. Benedetto stated the Township meeting was November, 2016; and Mr. Kniele stated Del Val did the testing prior to that in April, 2016. Mr. Benedetto stated Toll Bros. did not have the mold tested before November, 2016. Mr. Kniele stated Mr. Benedetto was stating that Toll Bros. had not done anything, but he has reports of testing done in April, 2016 which was before the Board of Supervisors meeting. Mr. Benedetto stated this has been going on for five years, and Toll Bros. is just now doing mold testing when they had been notified about this by the residents. Mr. Kniele stated the initial concern of the residents was that the lack of chlorine residual was causing the pink and black substances.

Ms. Reiss stated she agrees that you can get mold around the ceramic portions, but what she was concerned about was she heard in November, 2016 that people indicated that they were getting mold on their countertops which is not the same as the toilet or the shower. Ms. Reiss stated out of 165 homes, it appears that

approximately 85 of them have these problems. Mr. Kniele stated he does not believe that 85 is an accurate number. Ms. Reiss stated she was looking for a common denominator for those having a problem. Mr. Kniele stated he feels it is high moisture content in the home. He stated they do not know how people keep their home. Ms. Reiss stated she recognizes this problem could occur in a bathroom, but a countertop is not normally what she would consider to be a moist idea. Mr. Kniele stated as he noted earlier Pa American Water increased the testing and flushed the lines, and Toll Bros. had DelVal do testing; and each report, which has been made available to the Township, concluded that it is the moisture which is the problem and homes with excess humidity are more likely to develop problems. He stated similar to the Pa American Water conclusion, DelVal concluded that those having the problem should clean the home with a commercial cleaner that contains bleach. Mr. Kniele stated Toll Bros. has spent thousands of dollars on these tests.

Mr. Fritchey asked Mr. Kniele to speak to the conclusions from the bacterial testing, and Mr. Kniele stated they found that there was mold in the three homes at a level that is not harmful to humans. It also indicated that there were extremely low levels of airborne molds which were at acceptable levels. He noted all the results are in the reports that were submitted to the Township.

Mr. Benedetto stated in October, 2015 it was indicated that of the 105 homes settled at that time, 77 responded to the survey, and 55 of those reported that they had a serious problem. Mr. Benedetto stated he feels it is unusual to have a significant number of the residents reporting this problem in a development which was built beginning in 2012. He stated he does not know how many Township residents have this significant of a problem, and all they are saying is they need to clean better. He added he feels this is an abnormal situation, he does not feel they have gotten to the bottom of the problem; and he feels it is being dismissive of the residents in the area.

Mr. Lewis stated he is sympathetic to those experiencing the mold. He stated he understands that the homes that had the most significant problems were tested because they wanted the best baseline. Mr. Lewis stated all the homes in this development do not have this problem, although some of the homes have a significant problem. Mr. Kniele stated they only tested the homes that were experiencing the problem and only those who would allow them to test. Mr. Lewis noted one home had high numbers, and Mr. Kniele stated it was the Slutsky residence. Mr. Kniele stated the reports told whether the substances were harmful or not; and based on the report on the Slutsky residence, it indicated that the mold levels were high on the underside of a sink stopper. He stated the conclusion was that it needed to be cleaned. He stated they are confident that the lack of chlorine is not causing this issue, and Pa American has also indicated that

this happens in other areas as well. He stated the Pa American handout he discussed earlier was written before Regency at Yardley Development was started which would indicate that this happens in a number of other areas.

Mr. Fritchey stated at this point he does not feel anyone is disputing whether or not there is sufficient chlorine. Mr. Fritchey stated he feels there are a lot of people in this development that have this problem percentage wise. He stated it seems that they are saying this is a maintenance issue; and while everyone in Lower Makefield probably has to take care of mold in their bathrooms particularly when it is humid, there could be other explanations why those in this development are having mold or mildew problems which were addressed in the report with regard to ventilation and dehumidification. He stated the homes that have this problem may be less well ventilated or more humid for some reason which may have to do with design and construction issues. He asked if any testing was done to determine the humidity levels within the homes that have the problem as opposed to the rest of the homes; and Mr. Kniele stated that testing was not done. Mr. Fritchey stated there could be homes that need a greater level of ventilation or dehumidification. He asked if anyone in Toll Bros. is looking into this as they go through the construction of the remaining homes in this development and putting in dehumidification. Mr. Kniele stated they do offer dehumidifiers to their homeowners if they would like to purchase them. Mr. Fritchey stated Toll Bros. has not modified their fundamental design to accommodate this, and Mr. Kniele stated they have not.

Mr. Fritchey stated Toll Bros. has numerous residential projects, and he asked if there has been any Corporate level study that looked into comparable problems to this; and Mr. Kniele stated he is not aware of any. Mr. Fritchey stated he feels that there are probably more mold problems in this development than there are in the average Toll development, and Mr. Kniele stated he would not know about that.

Mr. Benedetto stated the testing was done in February, and Mr. Kniele stated it was done in January and February. Mr. Benedetto stated it is the warmer months that have the more significant problems, and he would have liked to see what the testing results would be then. Mr. Kniele stated he did not feel that the Township would have wanted them to postpone this and they would have been saying “they sat on this issue longer.” Mr. Benedetto stated he feels they “sat on it” for eighteen months to test it, and he does not feel that they did it in a timely manner. He stated they did it in a timeframe when the mold growth was not as significant as it is in the summer. Mr. Kniele stated they did the testing when they were asked to do it.

Mr. Fritchey stated he is grateful for what they have done so far, but he is concerned about the humidity issue. He stated it is possible that the problem could be solved if the homes automatically had more dehumidifiers and/or more ventilation although

he is not sure. Mr. Fritchey asked if there are units in Regency at Yardley that opted for the dehumidification/ventilation add-on, and he asked if there is a distinction between those units; however, Mr. Kniele did not know.

Ms. Reiss asked about basements in the development, and Mr. Kniele stated approximately 50% of the units have basements.

Mr. Fritchey stated they would like to find a fix, and he is sure Toll Bros. would want to find one as well because it would not help their brand if large numbers of people are complaining about one of their developments. He stated he also does not feel it does the residents any good if they are coming into public meetings and saying they have terrible problems with this since some day they will want to sell their units. Mr. Fritchey stated he understands that many residents are frustrated, angry, and anxious and would like to see this situation resolved. He stated he feels everyone should be looking to find a constructive fix to these problems to the maximum extent possible. He stated they also have to consider what the Township is capable of doing legally which they will discuss later.

Mr. Kevin McHugh, 188 Filmore Way, stated he was the third resident to move into Regency at Yardley in April, 2012; and they have had this issue from time to time over the subsequent years. He stated the subject was raised with Mr. Kniele's predecessors. Mr. McHugh stated Mr. Kniele used his correspondence to the CEO of Toll Bros. and Pa American Water in some very "disturbing ways" from his perspective. He stated some of those present are extremely frustrated with Toll Bros., and in particular with the previous Project Manager, Mr. Keith Rattigan, who was the person he dealt with when this issue first came out. He added that Mr. Rattigan has now been elevated within the organization, and Mr. McHugh stated he feels Mr. Rattigan is "still pulling all the strings" on this and many other issues in Regency at Yardley. Mr. McHugh stated the standard way that Toll operates is they deflect, delay, refuse to deal, and refuse to communicate.

Mr. McHugh stated he had asked for meetings, and Toll Bros. would not discuss the issue. He stated he was told that this was an HOA issue; however, Mr. McHugh stated Toll Bros. controls the HOA until they reach a certain number of residents in both sides of the community – the one on Oxford Valley Road, and the other at Big Oak Road. He stated at no time in the near future will the actual residents control the Homeowners Association. Mr. McHugh stated Mr. Kniele indicated that there is one resident on the Homeowners Executive Board, and there are two Toll representatives. Mr. McHugh stated prior to having a resident there, they did not know what went on at the Executive Board meetings. Mr. Fritchey asked if there are Minutes from those meetings; and Mr. McHugh stated there are now because the

resident communicates his impressions, but prior to that resident representative, who is here this evening and does a great job for the residents, they got nothing from Mr. Rattigan. Mr. McHugh stated his letter to Mr. Yearly and Pa American was written after many, many attempts to try to get some cooperation from Toll Bros.

Mr. McHugh stated they are not new homeowners, and they have all come from other homes. He stated when they did the survey in 2015 of the residents to determine the number who had issues, it was 70% of the then-existing residents indicating that they had some level of this issue. He stated something is amiss, but there does not seem to be a reason why they have this issue. He stated they tried to do a plot plan based on who did and did not have a problem. Mr. McHugh stated he has a basement; and while he has no problems in the basement, he has the problem on his first floor. He stated there are also rain gardens and retention basins that are not functioning the way they are supposed to. He stated a prior speaker noted that there are workers who are throwing trash on their streets, and some of this does get into the retention basins and pollutes them. He stated they hear that someone will be sent out on Friday to get the trash; however. Mr. McHugh stated he has been waiting for a cleanup at the front of his property since the last snowstorm because there is macadam everywhere. Mr. McHugh stated the residents are frustrated with Toll Bros. and the company leadership, particularly Mr. Rattigan.

Mr. McHugh thanked Pa American Water who immediately called him when he sent his letter, and a local representative came to his home to discuss the issue. They indicated that their responsibility was the water coming into the house. Mr. McHugh stated he contacted Mr. Fedorchak in April, 2016 and sent him all the back-up materials on this issue so it was not just November, and this has been going on for quite some time at various levels. Mr. McHugh stated Toll Bros. just wants to indicate that it is not a Toll Bros. problem and that this situation is normal. Mr. McHugh stated this is not normal, and there is something that is not right.

Mr. Fritchey stated he understands the frustration of the homeowners. He asked Mr. McHugh with respect to the pink and black mold has he noticed any correlation between the ventilation and dehumidification issues amongst the residents and could that possibly be the explanation beyond the explanation that the residents are not using enough cleaning products. Mr. McHugh stated he uses his air conditioner when needed.

Mr. McHugh stated earlier Mr. Fedorchak stated that this is a private community; and while it is a private community, he feels the Township has enforcement power. He stated the Township has escrow and they do have influence over this, and he would like help from the Township. Mr. Fritchey stated the Township solicitor can speak to this.

Mr. Benedetto noted Mr. McHugh's letter from 2015 where he indicated he had discussions with a Pa American Water representative, and they suggested that potentially the problem could be caused by on-going construction and construction practices; and he asked if they clarified this in any way. Mr. McHugh stated they discussed airborne soil disturbance and the practices of the street sweeper; however, that is very sporadic. Mr. McHugh stated on certain days the street sweeper creates a cloud of dust, and he had shared those pictures with Toll Bros. Mr. McHugh stated Mr. Kniele indicated earlier that the residents felt it had to do with chlorine, and he stated they are just trying to look into all the options; and they are looking for help. Mr. Benedetto asked if the problem is worse in the summer, and Mr. McHugh stated it is. Mr. McHugh stated he also believes that there was no specific bacterial testing done. Mr. McHugh stated given all that Pa American Water did, they are convinced that it is not a water issue, and he feels that Toll Bros. is taking a lot of the credit for what Pa American did.

Mr. Fritchey asked if they tested the humidity levels at different residences that are effected by this which may provide an answer to this problem. Mr. Fritchey asked if any residents have done any testing beyond what Toll Bros. has done; however, Mr. McHugh stated he did not know.

Mr. Bill Vallier, 1712 Buchanan Way, stated he and his wife use different sinks in the same bathroom; and his wife's sink got clogged, and when he took the trap apart, it was solid with black slime. He stated his was clear. He stated he bought a kit which he sent in, and it was determined that it was mold; but there was no explanation why one sink was clogged solid and the other was not. He stated he is one of the residents who does not have a significant problem with mold. He stated when they have some mold, they just wipe it up with Clorox and re-do the process when necessary. He stated he knows that some other people have mold in their dishwashers, and it was felt that it was because they were using economy soap as opposed to a more expensive soap which does not result in a mold problem. He stated he knows that there are similar situations with washing machines with mold build up, and he feels it is related to maintenance. Mr. Vallier stated he does appreciate what has been done in trying to resolve this issue. He stated air infiltration was brought up, and he stated he checked with the Township Building Department when he moved in since there is a test for minimum requirements for air infiltration having to do with energy efficiency; and he wanted to see that report. He stated there were two reports – one for ventilation and in his house they had to re-do the test as the first time it failed. He stated that was for the air vents, heating ducts, and air conditioning ducts. Mr. Vallier stated the other test is for whole house ventilation. He stated he understands that for that test they put a blower on the door and build up the pressure, and you are only allowed to lose a certain amount of air; and this tests for air coming into the house which is related to ventilation and heat efficiency. He stated the Building Inspector did not require that test because

the Building Code does not require that you do that, and it can be done visually. Mr. Vallier stated he does not understand how you can do a visual inspection. He stated when he looked at the Permit, it indicated that it was done visually.

Mr. Vallier stated at his house there is tar paper but a lot of the homes have Tyvek which would make a tighter seal so there could be a relationship with the air infiltration which would mean if you have your humidifier on, it could build up moisture which then could create a problem with mold. Mr. Vallier stated he feels the problem has to be related to moisture; and for those who have black mold problem it has to do with moisture build up. He stated it would be the same for the pink slime. Mr. Vallier stated when he has a problem at his house, he deals with it, and it then goes away.

Ms. Ellen Slepion, 1694 Pierce Way, stated she sent several letters. She stated she has friends and families who live in other Toll communities, and they do not have this problem which she feels indicates that there is something wrong in her community. She stated Pa American representative Supervisor Sandy Weiss was at her home, and she indicated that she never saw contamination to this extent and that this community seemed to have more of an issue than other communities where there were sporadic cases called in. Ms. Slepion stated she does not feel the comment made that there were only four complaints in three years make sense as she knows that there were more people than that from her community who complained. Ms. Slepion stated she was also representing the community and speaking for several residents, and it was therefore not necessary for everyone to constantly be calling with complaints. Ms. Slepion stated with regard to the literature referred to from Pa American, serratia is far from non-pathogenic; and it is an opportunistic pathogen. She stated when she brought this to Ms. Weiss' attention, Ms. Weiss indicated that she would consider changing the literature.

Ms. Slepion stated she does not know that any bacterial testing was done, and when she called the testing company they advised her that they did not do any bacterial testing because Toll did not order any bacterial testing only mold testing.

Mr. Kniele stated they did cultural microbial swab sample testing. Ms. Slepion stated one of the tests she had came out to be pink mold, and she does not know for sure if she has serratia or not or if it is the same mold throughout the house. Ms. Slepion stated she did send the Township a letter in response to Mr. Kniele's letter.

Ms. Slepion stated they know that they have certain contaminants which are potential health threats, and she provided information from a number of experts which indicates that one of the organisms that was common to all three of the homes tested is a human pathogen under the right circumstances. She stated the

delay in response has allowed the residents to be exposed to these molds for a longer period of time than they would consider acceptable; and she stated for herself, it has been over four years. She stated their indoor air quality spore count was higher than the outdoor count; and according to OSHA, the indoor level should be significantly lower than the outdoor level. She stated the testing was limited because Toll did not pay for more extensive testing so their results are inconclusive. Ms. Slepion stated the contamination is unsightly, and they are burdened with constant cleaning. She stated they know that professional mold cleaning is a better option over self cleaning. Ms. Slepion stated Mr. Stern came to her house to do the sampling, and he brought up the fact that they are against chlorine-based products because of environmental and respiratory concerns. She stated it has been found that some molds will actually thrive on chlorine.

Mr. Fritchey asked Ms. Slepion if she has noticed any health deterioration that she would associate with this problem such as respiratory infections. Ms. Slepion stated she wanted to send out a survey in the community about this. She stated she does have sinusitis, and some of the residents have complained to her about health issues since they have lived in this community although she recognizes that would be hard to distinguish since there is pollen and other things that could be contributing to this. She stated they know that these organisms have the potential to cause sinusitis and rhinitis and also pulmonary problems which causes them a concern particularly in an older community.

Ms. Slepion stated they have been using exhaust fans, air conditioners, opening windows, and other recommendations to lessen mold growth. She stated despite the use of humidifiers during the winter months, mold growth is not as prevalent at that time compared to the warmer months. Ms. Slepion stated she does not feel that three homes and eight swab samples are not enough to determine the true extent of their problem. Ms. Slepion stated they did not have this level of contamination in their previous homes, and feel that something is grossly wrong since so many homes in a newly-built community are sharing the same problem.

Ms. Slepion stated they do not know whether Toll Bros. researched the ground on which the homes were built before beginning construction or if they knowingly built in an area which was known to have mold contamination issues. She stated they also do not know if building materials left exposed to the elements are a factor. She stated they also do not know if the unattended and incomplete rain gardens are a source of contamination. She stated they do not know of other contributing factors since Toll has not taken the impetus to research all possible causes and only checked into some causes after added pressures from the community and the Township. Ms. Slepion stated they also do not know the identity of all the mold species, bacteria, or yeast; and they do not know why so many homes in their

community are effected or why some homes are not effected at all. She stated they also do not know who is covering the cost of remediation, and they are hoping that Toll would take part in that.

Ms. Slepion stated they hope that there will be answers to these unanswered concerns with the help of Toll and the Township even though Toll seems reluctant to continue on this path. She stated their goal is to live in a safe and stress free retirement community. She thanked the Township for their continued support.

Mr. Mike Brody, 509 Brookbend Court, stated he lives in a complex that is twenty years old; and in his circle of five houses, three of them by the end of the summer will have replaced their chimneys because of poor stucco and flashing. He stated in his development, you can see that all of the chimneys need to be replaced. He stated he feels the Regency issue is very important especially since there is still a large portion of the tract still to be built. He stated he also has black mold in the bottom of his drain so it is not just that development.

Mr. Kniele stated it is fair to say that this is not exclusive to the Regency development.

Mr. Lewis asked Mr. Kniele the value of the Toll Bros. brand. Mr. Lewis stated he feels not being as responsive as they could be to customers, particularly high-value customers, causes a situation where the brand is at risk. He stated he feels they should consider the cost to run the extra test and how much it would cost to clean one of the houses professionally to see if it changes anything. He stated the residents could also consider buying a dehumidifier to see if there is a difference. Mr. Lewis stated this issue has become part of the public record and there will be meeting Minutes which will be searchable on-line which will be available to those looking into moving into this area. Mr. Lewis stated Toll Bros. has been in this community for over forty years, and he feels at some point they should consider spending a little money to see if they can solve these issues. Mr. Lewis stated he feels that there are probably under ten homes that have a significant issue, and they tested the ones that had significant issues. He feels Toll should go a little further and also asked the residents to be part of the solution as well. Mr. Lewis stated the homeowners are eventually going to take over the Homeowners' Association and Toll Bros. will be gone.

Mr. Fritchey stated he feels they need another set of eyes on this that has no financial interest and has some expertise, and he feels an environmental engineer should look at some of these units to see if they can reach a conclusion. Mr. Fritchey stated it may be that Toll Bros. is correct and it is a maintenance problem, but it may also be that even though the units may meet Codes, they are being built too tight; and in the interest of saving consumers money on their heating bills, they are

building units that lack sufficient ventilation or dehumidification. He stated there may be a simple fix that could correct the problems and keep Toll from facing a Class Action Suit. Mr. Fritchey stated while he has doubts about what the Township can do legally, it is clear that everyone has a personal right of action and a right of Class Action. Mr. Fritchey stated he feels that the Township should spend a few thousands dollars to have an environmental engineer go in and see if they find a solution to this.

Mr. Fedorchak stated he agrees that a first step would be for an environmental engineer to gather all the information including the testing, and comments from Toll and Pa America Water, and they could revisit the issue with the DEP and the Bucks County Health Department. He stated they could also determine if more testing would be required; and if so, what kind of testing. Mr. Benedetto asked what environment engineer he was thinking of; however, Mr. Fedorchak stated at this point he does not have anyone specific.

Mr. Kniele asked if they are going to consider expanding the scope beyond Regency as there was just an individual who stated that he is experiencing this at his home in another community. Mr. Fedorchak stated at this point it is just about Regency. Mr. Fritchey stated everyone has mold from time to time which they deal with; but the problem is that in this case there is a disproportionate number for one development, and they have never had this happen with Toll Bros. or any other developer that has worked in the Township. He stated it may not be any Code violation, and the Township may have no cause of action; and it may be a matter of a private right of action that individual citizens have. Mr. Fritchey stated they are trying to find a fix to solve the problem.

Mr. Jim Reich, 177 Haines Way, stated he is the minority HOA member who was elected by his constituency. He stated he feels the Board understands their frustrations, and what has been proposed would be the way to go, and that Toll should address some of the extreme issues. He stated as the HOA rep, he will be there to follow up on everything that happens.

Mr. Fritchey moved, Mr. Lewis seconded to authorize the Township Manager to engage an environmental engineer to advise the Board in the direction that was indicated by the Board of Supervisors.

Ms. Rae Pinchuk, 1664 Umbrell Way, stated Mr. Rattigan first told them that the problem had nothing to do with the building, and it was that the water that was no good. She stated they all then went after the water supplier and now they find that was false which has wasted time. She stated Toll Bros. did not do what was right.

Motion carried unanimously.

POOL SNACK BAR DISCUSSION AND APPROVAL OF RESOLUTION NO. 2340

Mr. Fritchey stated a situation has developed where it is possible that they will not have a snack bar at the LMT Pool for this summer. He stated they are working on trying to get this fixed, and he is hopeful that it can be resolved.

Mr. Fritchey stated the LMT Pool opened in 1981, and no tax dollars are used to support the Pool operation as all Pool operations and Capital expenditures were to be financed from Membership fees. Mr. Fritchey stated the Pool opened a snack bar and attempted to run it with volunteers until 1992. He stated during this time, the snack bar routinely lost money of approximately \$8,000 to \$15,000 per season. He stated attempts were made to find professional food service vendors to operate it, and those attempts repeatedly failed as no one was interested in taking over this operation. Mr. Fritchey stated finally in 1993 one company was the sole responder to advertisements placed in the Bucks County Courier, and Marsha Klayman was involved in that operation; and the following year, she applied to run the snack bar as Archie's Pizza. Mr. Fritchey stated she continued to run the snack bar trading most recently as Marsha Lee Enterprise. Mr. Fritchey stated the Contractual relationship that was entered into between Lower Makefield Township and Ms. Klayman has continued from one year to the next without ever having an RFP. Mr. Fritchey stated she would have done so this year had she chosen to continue.

Mr. Fritchey stated in 1997 a management consultant report on the Pool was done, which noted complaints about the food service which were looked into by the management consultant; and the Township Manager was directed at that time by the Board of Supervisors to handle the Agreement for the snack bar with the further directive that the menu was to be approved annually by the Pool Board. He stated the Park & Recreation Board was tasked with menu approval after the dissolution of the Pool Board in the early 2000s, and the letting of the Contract was delegated by the Board of Supervisors and has continually been delegated since then to the Township Manager. He stated no member of the present Board of Supervisors or any past member of the Board of Supervisors has ever voted to award the Pool concession to Ms. Klayman; and it was always the responsibility of the Township Manager.

Mr. Fritchey stated as of 2017 there are over 1,800 families and 600 individuals signed up for the LMT Pool membership which means that there are approximately 8,000 people, most of whom are Lower Makefield residents, who are looking forward to the opening of the Pool on May 27, 2017 which is approximately three and a half weeks away and also looking forward to the opening of the snack bar. Mr. Fritchey stated on March 8, 2017 the current vendor sent an e-mail to the Park & Recreation Director, Donna Liney, stating that she would not be returning to operate the snack bar; and this left LMT in the position of having to find a replacement which created a problem. Mr. Fritchey stated on March 15, 2017, the

Bucks County Board of Health sent an e-mail to Ms. Liney stating that they learned from the vendor that she would not be returning to the LMT Pool, and that LMT had thirty days to find a Certified Food Manager to take over the operation; and for that person to be attached to the License which LMT has to operate the Pool snack bar. Mr. Fritchey stated they had thirty days to get a properly Certified substitute who was willing to accept the job and was capable of doing so quickly which created a crisis. Mr. Fritchey stated in order to get a Food Service License you have to take a course and pass a test, and the courses are not given on a daily basis; and it could have been months before a person who was not already qualified could be properly Certified to move forward. Mr. Fritchey stated they further learned on March 15 that the vendor was going to be removing all of her equipment from the snack bar so they not only needed to find a qualified person to operate the snack bar within thirty days, but they had to get someone who would be able to come in and replace all of the equipment.

Mr. Fritchey stated at the direction of the Township Manager, Ms. Liney contacted the McCaffrey family to see if they would be willing and able to step in and help Lower Makefield Township to meet the April 15 deadline to save the License and keep the snack bar open for the summer of 2017. Mr. Fritchey stated the McCaffrey family did not solicit this opportunity, and it was Lower Makefield that contacted them because of their past history of commitment to the community, to charitable causes throughout the community, to community service, and their history of relationships with people in the Township, and the fact that they were one of the few identifiable entities that had both the food service capability and the resources to step up in short notice and avert this crisis.

Mr. Fritchey stated at various times between March 17 and April 3, Mr. McCaffrey visited the snack bar to see what was needed. He stated the previous vendor removed all the equipment from the facility, and the Park crew went in and cleaned the snack bar removing and replacing old flooring and ceiling, repairing damaged screens, and painting. Mr. Fritchey stated on April 4, Mr. Jim McCaffrey IV e-mailed the Park & Recreation Director that the McCaffrey family was willing to help out the Township and would run the Pool snack bar for this year. He indicated further that his father, Jim McCaffrey III, would contact the Township Manager and work out the details of the Contractual arrangement. Mr. Fritchey stated on April 11, 2017 Lower Makefield Township e-mailed Jim McCaffrey a proposed Agreement for his consideration under which the McCaffreys would pay a \$3,500 rental fee to operate the concession stand for the summer of 2017. Mr. Fritchey stated on April 14 one day before the deadline, Lower Makefield Township advised the Bucks County Board of Health that the McCaffreys had offered to take over the Pool operation and should be attached to the License to substitute for Ms. Klayman.

Mr. Fritchey stated persons active on the Lower Makefield Township is a Great Place to Live Website began to question whether a Contract to operate the snack bar could be awarded outside of the competitive bidding process; and while this probably began as a proper channel for political discourse, it was done without a grasp of what the law requires, and soon degenerated into a “nasty exercise of Internet trolling” that irresponsibly slandered and defamed the McCaffrey family, the Park & Recreation Director, Donna Liney, and the Township Manager, Terry Fedorchak. Mr. Fritchey stated accusations were made that the Township Manager and Park & Recreation Director took it upon themselves to award a Contract that could only be awarded by a vote of the Board of Supervisors, that someone gave the McCaffreys a “sweet deal” without bidding it out, that it was an “underhanded deal,” a deal that avoided the proper bidding process, “crony capitalism,” “patronage for a wealthy family the wields significant power in the Township,” that the “McCaffreys have enough pull in the Township to push this through,” and called it a “shady and obviously crooked deal.” Mr. Fritchey stated people’s reputations were hurt, and these statements could serve as a basis for Civil liability and defamation lawsuits.

Mr. Fritchey stated this sort of trolling has consequences; and in this case the consequence was that on April 26, 2017 Jim McCaffrey IV e-mailed Lower Makefield Township that due to the social media commentary about him and his family that was less than flattering, McCaffrey’s intended to withdraw from the Agreement to operate the Pool snack bar because it did not want to be accused of engaging in “shady deals” in which they were going to profit because of “family power and connections.” Mr. Fritchey stated this was a family that stepped up to the plate in a time of crisis and was acting heroically to take on a Contract that they had no interest in seeking; and for their trouble, they were trolled, vilified, and defamed. Mr. Fritchey stated they had done a lot of work in the community to build up their reputation and good will in the community, and it was being dissipated because of this response.

Mr. Fritchey stated Ms. Liney and Mr. Fedorchak were also accused of “crony capitalism, providing sweetheart deals, and acting outside of the authority given to them by the Township,” none of which was true; and that hurt their reputation as well. Mr. Fritchey stated both of them are nearing retirement; however, both of them might seek other employment of some sort, and what was stated about them was defamatory and actionable. He stated what was said was false.

Mr. Fritchey stated hoping that the McCaffrey family might reconsider, he and Ms. Reiss called Jim McCaffrey IV on April 28 and asked him if he and his family would reconsider their proposal to withdraw if the Board of Supervisors at their May 3 meeting would ask them to please operate the snack bar. He stated they indicated to him that if they were unwilling to do this, they would understand; and

they recognized that this was a family decision that they needed to discuss.

Mr. Fritchey stated while he made no commitment, Mr. McCaffrey did agree to discuss this with the family.

Mr. Fritchey stated part of what happened was due to public ignorance about what the law of Pennsylvania requires concerning Municipal Contracts, what is permissible and ethical conduct, and what is normal practice. He stated he feels a lot of this problem could have been dissipated if people had understood the law or made an effort to clarify the law before hurling accusations that people did things that were criminal. Mr. Fritchey asked Mr. Truelove what Contracts require the competitive bidding process in Pennsylvania; and Mr. Truelove stated it is generally Contracts for construction projects or certain kinds of purchases and it depends on the monetary threshold. He stated in some ways it is easier to say what Contracts are exempt since that is the way the Statutes are designed. He stated as he was requested he did provide information to the Board of Supervisors in a summary form.

Mr. Truelove stated for the Contract in this situation, as was the case with the ones that Ms. Klayman had with the Township for years, the vendor was actually paying for the opportunity to provide the service as opposed to public money being expended. He stated bidding requirements are generally required when public monies are spent – not going the other way. He stated Lower Makefield is a Second Class Township and the bidding levels and qualifying items subject to bid are set out in the Second Class Township Code, Chapter 31, Section 3102. He stated anything below \$10,700 is not required to be put out to public bid. He stated between \$10,700 and \$19,700 three written/telephonic quotations are required; and if it is above \$19,700 the formal bidding process is required which could take weeks or months. Mr. Fritchey stated there are also further waiting times due to the requirements of the Responsible Contractors Ordinance, and Mr. Truelove agreed.

Mr. Truelove stated the situation with the snack bar agreement is analogous to the various athletic organizations in the Township where the Township allows them to use Township-owned facilities and pay for the opportunity to use those facilities. He stated YMS and PAA have been in the Township for years, and they use Township facilities and pay a User Fee to do so. He stated that was what was done with Ms. Klayman over the years; and if the McCaffrey family goes forward, they will have to meet certain conditions for insurance, minimum wage, and background checks. He stated Ms. Liney has done a great job at this over the years, and he has never heard of any issues with the operation of the Pool since 1997 when the analysis was done. Mr. Truelove stated in this case, it is not subject to bid requirements. He stated if a Contract were to be awarded to McCaffrey's, he would suggest certain contractual requirements be included in the arrangement.

Mr. Truelove stated if the Township wishes to look elsewhere in a year or two, they can do so and advertise as was done twenty-five years ago to see what interested parties may want to run the snack bar. He stated this year given the timeframe, he feels it would be difficult to do so now under these circumstances. Mr. Truelove stated he also talked to Ms. Hoffmeister at the Health Department to get background as to requirements for the snack bar; and she advised that the Certified Food Management personnel does not involve just one person, and they would have to have someone who is Certified on site all the time. Mr. Truelove stated the License holder is actually the Township, so they have to make sure that whoever provides the service satisfies all the requirements for the Township and with the Department of Health and any other oversight that is part of the process. Mr. Fritchey stated if the Township were to operate the snack bar with the License they have, and they did not have a properly-Certified food handler on site, the Township would actually be committing an offense; and Mr. Truelove stated they could be subject to fines and other sanctions.

Mr. Fritchey stated if they were subject to the competitive bidding requirements, they might be in a position to open the snack bar sometime in November. Mr. Truelove stated if that was a requirements, the only exception to that would be if they could qualify under some kind of emergency which is allowed under certain circumstances; but he is not sure that a snack bar would be considered an emergency.

Mr. Fritchey asked if either Statutory Law or Case Law of Pennsylvania require Contracts of this type to be let by the Board of Supervisors as opposed to being delegated by the Board of Supervisors to the Township Manager or other Municipal employees; and Mr. Truelove stated he is not aware that there is especially since the Township itself is not paying for the Contract. Mr. Truelove added that it may be better practice to have that done, but under these circumstances that would not be required; and he also added that it was not done for decades. Mr. Fritchey stated the current Board of Supervisors did not vote on granting a Contract to Ms. Klayman in January of this year when she was asked for her menu, and Mr. Truelove stated he knows of no vote ever when a vote was taken publically on awarding a Contract for the Pool concession.

Mr. Fritchey stated at this point they face a very real possibility that they will not be able to operate the snack bar which will make the summer much less enjoyable for the Pool membership unless they can persuade the McCaffrey family to do this for them. Mr. Fritchey stated he feels that they need to assure the McCaffrey family that this Board of Supervisors and the Lower Makefield Township community as a whole wants them to operate the snack bar for them this summer, and that those who indicated that they were “crooked practitioners of crony Capitalism are an ignorant minority.”

Mr. Fritchey stated this is a situation where what started as appropriate political discourse degenerated into irresponsible Internet bullying and trolling; and good, honest people have suffered slander and defamation including the McCaffrey family, the Township Manager, and the Park & Recreation Director. Mr. Fritchey stated as a community he feels we are better than this and sincere apologies are in order from the Board of Supervisors on behalf of the Township Government and the community as a whole. Mr. Fritchey stated the McCaffrey family has been an outstanding neighbor dealing fairly with everyone and contributing freely and generously to virtually every charitable and educational cause that has come before them. Mr. Fritchey stated they did not ask to run the snack bar, but they understood that the people of Lower Makefield were in “a fix,” and they agreed to help them out.

Mr. Fritchey stated Ms. Liney has been the Park & Recreation Director for nearly twenty-five years, and everyone who has dealt with her knows that she has provided loyal and faithful service. He stated she is retiring in approximately one month, and her reputation has been sullied by “Internet trolls” who accused her of being involved in a corrupt deal; and this is wrong. Mr. Fritchey stated Mr. Fedorchak has been the Township Manager for twenty-four years and is close to retirement as well, and he too has provided loyal and faithful service to the Township. He added that in times of economic downturn over the last decade when people in the Township Administration retired and were not replaced so that the Township could save money, Mr. Fedorchak had to pick up their duties doing so on the same salary that he was receiving as Township Manager which certain people on the Internet erroneously indicated was \$250,000 a year which is incorrect. Mr. Fritchey stated Mr. Fedorchak acted in a manner exactly as he was supposed to understanding directives from every Board of Supervisors since he has been the Township Manager, and he acted decisively to prevent Lower Makefield Township’s loss of its License and to keep the snack bar open; and for this he was “ignorantly accused of being instrumental in crony Capitalism and shady deals,” which is wrong.

Mr. Fritchey stated he feels that those involved need to amend their collective behavior when engaging in political discourse in the Township. He stated what happened on the Internet was disturbing, irresponsible, and not entirely unprecedented saying cruel, false things that harm other people. He stated the Internet makes it simple to make appalling accusations that are totally devoid of fact and cause great harm. He stated the Internet trolls may have ruined the summer at the Pool for thousands of members of the community if the McCaffreys do not agree to operate the snack bar.

Mr. Lewis moved and Ms. Reiss seconded Resolution No. 2340 as follows:

Whereas, the long-term vendor who ran the LMT pool snack bar in recent years through 2016 has advised Lower Makefield Township that she did not wish to continue in 2017, and

Whereas, the LMT pool snack bar requires a certified Food Safety Manager who has taken and passed the appropriate examination in order to retain the snack bar's operational License from the Bucks County Board of Health, and

Whereas, Lower Makefield Township faced a thirty-day window from March 15, 2017 to find a qualified person or entity to replace the former vendor on the License, it never sought the Contract, and

Whereas, the Township Manager has long been delegated the responsibility to manage and execute LMT contracts with pool snack bar vendors, which is consistent with the laws of the Commonwealth of Pennsylvania, and

Whereas, the Parks & Recreation Director was directed to contact the McCaffrey's Food Markets to see if they would assist in Lower Makefield meeting the deadline and keeping the pool snack bar open for the summer of 2017, and

Whereas, subsequent to an Agreement with McCaffrey's Food Market, various individuals on social media inaccurately and irresponsibly criticized any award of a contract to McCaffrey's by Lower Makefield Township as an example of "crony capitalism," "political favoritism," and a "shady and corrupt deal," and

Whereas, McCaffrey's expressed the intention to withdraw its offer in light of this negative response,

The LMT Board of Supervisors states and resolves the following:

- 1) The McCaffrey family and the McCaffrey Food Markets have long continued to be a mainstay in the Lower Makefield Township community and have consistently supported charitable and educational ventures of all sorts that make Lower Makefield a great place to live. The Lower Makefield Township Board of Supervisors has absolute faith and confidence in the integrity of the McCaffrey family and McCaffrey Food Markets.

- 2) The Township Manager and the Parks & Recreation Director have each provided more than twenty years of honest and faithful service to the people of Lower Makefield Township and acted honorably, lawfully, and ethically in all respects concerning the Pool snack bar Contract with the McCaffrey family.
- 3) While responsible political discourse is always desirable in a free society, Internet trolling concerning this matter has been ill-informed, false, and irresponsible; and is categorically rejected by the Board of Supervisors.
- 4) The Lower Makefield Board of Supervisors respectfully apologizes to the McCaffrey family, the Township Manager, and the Parks & Recreation Director and asks that the McCaffrey family and McCaffrey Food Market reconsider withdrawing from the operation of the Lower Makefield Township Pool snack bar for the summer of 2017.

Mr. Benedetto stated he supports the Resolution although he does not exactly support the wording. Mr. Benedetto stated in his view he feels McCaffrey will do an excellent job if they would like to come back. He stated from what he saw on the Internet nobody questioned their competence in doing it. Mr. Benedetto stated for six years he has indicated that the Township lacks communication, and they do not do a good job of communicating. He stated this should have been communicated, and there were three separate Supervisor meetings when this could have been communicated. He stated the e-mail went out from Ms. Klayman, and she indicated why she did not want to do the snack bar. He stated there is a problem with communication among the Board of Supervisors, there was a problem of communication with Ms. Klayman, and most importantly there was a problem with communication with the public. He stated they could have put this on the Agenda at the March 15, April 5, or the April 19 meeting. He stated when they talk about people being misinformed in making these accusations, the “finger that should be pointed is at ourselves as a Township,” since he feels in the absence of information, people fill in the gaps. Mr. Benedetto stated when the people are not communicated with, they feel that there is an appearance of impropriety. Mr. Benedetto stated if McCaffrey’s indicated on April 4 that they would accept the position, it could have been announced at the April 5 meeting. Mr. Benedetto stated this should have been a transparent process. He stated the Township does not have a Facebook presence which they should; adding the previous Board voted against it. He stated a Facebook page had been set up for the Pool, and this would have been the perfect opportunity to put this on and also on a Township Website. Mr. Benedetto stated he has no issue

has no issue with people being engaged on social media and making assumptions given the absence of information. He stated he found out about the March 8 e-mail at PAA Opening Day which was one month later when he was told that McCaffrey's had this position. He stated while this was allowed under the law, he feels it should have been communicated to the public.

Mr. Benedetto stated the Agreement with McCaffrey's was for \$3,500; however, Ms. Klayman's rent went up to \$4,500, and maybe she balked at that. Mr. Fritchey stated they were reimbursing her back for hot dog, and Ms. Reiss stated the amount she was reimbursed was \$2,000. Mr. Benedetto stated all of this should have been communicated to the public as well as to all of the Supervisors. He stated this leads to situations where people make assumptions, and he will not blame social media for people making assumptions. He stated the Township has consistently not done a good job in communicating what is going on. He stated they need to "over communicate" in these types of situations. He stated they have had a failure to communicate for the six years he has been involved, and probably a lot longer. Mr. Benedetto stated if they are concerned about what social media is saying, the Township should have a Facebook presence. He stated they had a Facebook page for the Pool, and the Township should take that over and start communicating with the public in a much better fashion.

Mr. Fritchey stated he feels Mr. Benedetto has a much more positive view of the social media commentary that occurred in this case than he does. He stated he agrees with Mr. Benedetto that no one questions McCaffrey's competence, but they questioned McCaffrey's integrity; and that they engaged in a crooked deal, which is wrong. Mr. Fritchey stated he questions why people would jump to a conclusion of illegality involving an institution that has served this community extremely well and long.

Mr. Lewis stated he is adroit in social media but the challenge is understanding what is de minimous in the role of Supervisor. Mr. Lewis stated they cannot oversee or communicate every \$3,500 Contact. He stated that data can be made available, and those who are interested can always find that. Mr. Lewis stated he learned about this on April 5, and he was fine with it given that there was a difficult circumstance that the Township solved. He stated he did not feel that the Pool snack bar was a huge cost driver or profit center of the Township, and he is focused on items which hit a certain threshold; and he would tend to delegate smaller items. He stated other Supervisors were also informed April 5 before the Supervisors meeting and could have easily brought that into the Other Business section of the meeting. Mr. Lewis stated if he had felt that was a concern, he would have brought it up as a Supervisor; and it would be public and be an open discussion. Mr. Lewis stated he finds it challenging when someone does not avail themselves of that opportunity once they have been informed to ask for more information in the public setting; and then go

on Facebook and begin a discussion. He stated when the Facebook discussion occurred it was Friday, at 9:00 p.m.; and he began getting phone calls about it. He stated he does not know the details of every \$3,500 Contract, and he does not feel that he should be expected to respond in real time at 9:00 p.m. on a Friday night. He stated for people who engage in this, they are welcome to have a discussion about the policy, but he does not feel they should be disrespecting the staff or make unfounded accusations about a respected member of the community who has a fine grocery store.

Mr. Lewis stated he feels there is a community responsibility as to how we talk to one another as neighbors, but there is also Supervisor responsibility, one of which is having an understanding as to what is material and what is not as there is a limited amount of time. He stated a Supervisor should also make sure when they are communicating with the public that they have all the facts they need to know first. Mr. Lewis stated he tried to pause the discussion so that the Supervisors could come back and give all the details, but they were not able to control the comments on social media. He stated he feels the Supervisors as leaders in the community need to step up and state that when there is an issue they are not sure about or that should be brought up that it is brought up at a public meeting. Mr. Lewis asked that the McCaffrey family and McCaffrey Food Markets help the Township with this situation.

Ms. Reiss stated she is a customer of McCaffrey's Food Markets, and she is not treated differently from anyone else in the community. She stated the McCaffreys have been there for everyone when needed. Ms. Reiss stated it was difficult to have to "grovel" to the McCaffreys to reconsider, and she hopes that they will. Ms. Reiss stated she does not question when the Township staff purchases supplies which are much more than \$3,500 a year. She stated the staff is hired because they trust their judgment. Ms. Reiss stated she has worked with Ms. Liney and Mr. Fedorchak who have always been helpful. Ms. Reiss stated she was embarrassed as a Supervisor about this situation.

Mr. Joe Menard, 917 Putnam Drive, stated his family has been involved with the Pool since the day it opened. He stated he was shocked to find out that Ms. Klayman had quit, and he would like to get an understanding of the reasons she did this. Mr. Fedorchak stated it was a shock to them as well when she advised Ms. Liney about this. He stated it is possible that she did not want to do it anymore after over twenty years. Mr. Fedorchak stated he does feel she could have handled this a lot better since Ms. Liney reached out to Ms. Klayman the beginning of January asking her to provide them with the proposed menu. Mr. Fedorchak stated Ms. Liney did not get a response until the first week of March, and the response was that she was not coming back.

Mr. Menard asked if there was any other information in Ms. Liney's e-mail to Ms. Klayman that might have caused Ms. Klayman some consternation. Ms. Liney stated in Ms. Klayman's e-mail she indicated that it was a combination of issues. Ms. Liney stated she was having some health issues, there was a raise in the rent, and there were some issues with the ability to staff the facility since last year she had a "falling out" with a number of her employees. Ms. Liney stated she indicated that with all this combined, she would not be returning this year, and that she was leaving the Country and would be in touch when she returned to remove her equipment. Ms. Liney stated she had asked Ms. Klayman for her menu by March 14 for approval as they do every year, and Ms. Klayman wrote back on March 8 that she was not returning.

Mr. Menard stated in the Budget the rent for 2017 was \$4,500, but the rent quoted for the McCaffrey Contact was \$3,500; and he asked why they would both not be charged the same amount of rent. Several Supervisors indicated it had to do with the hot dog reimbursement. Mr. Benedetto asked the reimbursement for hot dogs. Ms. Liney stated they were reimbursing Ms. Klayman the difference between the \$1 for Dollar Dog night and what Ms. Klayman was charging which was approximately \$2.25 per hot dog. Ms. Liney stated this resulted in thousands of dollars the Community Pool was reimbursing Ms. Klayman. Mr. Menard stated the Pool Steering Committee came up with a great idea for Dollar Dogs, and Ms. Klayman was asked to participate in that, but she was not getting reimbursed. Ms. Liney stated Ms. Klayman was getting reimbursed and she would get a bill from Ms. Klayman every week for the amount of hot dogs sold, which could be 300 hot dogs; and they paid her the difference between the \$1 and the \$2.25. Mr. Menard stated he would like to see those figures as he feels they are wrong. Ms. Liney stated this cost the Pool thousands of dollars. Mr. Menard stated this was a marketing program that the Pool put on, and it was not the vendor's responsibility.

Mr. Menard asked when they communicated to Ms. Klayman that there was going to be a \$1,000 increase in the rent, and Ms. Liney stated it was in January when she sent Ms. Klayman the e-mail. Mr. Menard stated the Budget was passed in October/November; however, Ms. Liney stated the Budget is not finalized until December by the Board of Supervisors so she does not do anything until January. Mr. Menard stated since they knew it was going through, Ms. Liney could have communicated to Ms. Klayman that it was in the Budget proposal that her rent would go up to \$4,500. He stated since this was a change, and there is no Contract, they should have communicated this to Ms. Klayman when the Budget was being passed, and she probably would have given the Township better notice. Mr. Menard stated he feels there could have been better communication all the way around. Mr. Fedorchak stated Ms. Klayman could have come back to Ms. Liney that she had a problem with

certain items, but she did not do that. Mr. Menard stated he feels they should have reached out to this vendor who has been with the Township for twenty-six years and asked her what was wrong.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated he does not feel they should be apologizing since this was not the Board's problem; and the only thing they are guilty of is having processes that need to work better with changing technology and changing times. He stated he does not understand why the Board of Supervisors is saying to McCaffreys that they are sorry since they did not do anything wrong. Ms. Reiss stated the Supervisors represent the Township. Mr. Fritchey stated he agrees that the Board speaks for the larger community, and he feels those who committed the offensive conduct are a small minority; and he hopes that behavior does not represent how they normally conduct themselves. He stated he feels these people were irresponsible and may very well have cost the entire Pool membership a snack bar this summer.

Mr. Benedetto stated the residents are the customers, and if the Township is not communicating, that is on the Township; and he feels the apology should be to the residents to say the Township needs to do a better job of communicating to the public what is going on in the Township.

Motion carried unanimously.

PRESENTATION OF DUNKIN' DONUTS/DAY CARE CENTER SKETCH PLAN

Mr. Edward Murphy, attorney, was present and stated in 2006 the Township resolved all of the Matrix litigation by entering into a Settlement Agreement with the various Parties to that litigation. Mr. Murphy stated that Settlement Agreement created an opportunity for a limited amount of Office and Commercial space on Big Oak Road, and attached to that Settlement Agreement was a Concept Plan that called for different Residential and non-Residential development areas throughout the Matrix property. Mr. Murphy stated after that Settlement Agreement was approved Dr. Weinberg, the owner of Lower Bucks Pediatrics, acquired the property on Big Oak Road; and consistent with the Plan built a building that he has occupied for a number of years. Mr. Murphy stated that Concept Plan provided for two other pad sites – one being a two-story building on a 12,000 square foot footprint and the other building closest to the abandoned Old Oxford Valley Road right-of-way, was two stories and contemplated a total of 9,000 square feet. Mr. Murphy stated these two pad sites have not been built upon.

Mr. Murphy stated last October he submitted a Sketch Plan to the Township on behalf of Dr. Weinberg and two other Parties who were interested in building on the two vacant pad sites. He stated the larger of the two pads sites in the middle is contemplated to be a Lightbridge Academy day care facility, and Mr. Murphy showed where this would be located on the Plan. Mr. Murphy stated the other pad site that was originally contemplated to be 9,000 square feet would be reduced to an approximately 2,000 square foot building at a location he showed on the Plan and would be closest to the Old Oxford Valley Road abandoned right-of-way, and that would be the location of a Dunkin' Donuts.

Mr. Murphy stated during the public discussion at the Planning Commission meeting on November 15, 2016, the Township traffic consultant, TPD, had multiple comments; and they have spent the last four to five months discussing the Plans with Mr. Phil Wursta and his staff to address TPD's concerns. Mr. Murphy stated Mr. Wursta was concerned with both the internal circulation among all three potential uses as well as the access to Big Oak Road from the location that was depicted on the original Sketch Plan. Mr. Murphy stated Mr. Wursta felt that the single point of access was not appropriate given the mix of proposed uses, and he recommended that there be a second point of access to the west. Mr. Murphy stated the Sketch Plan that is before the Board of Supervisors was submitted approximately one week ago, and it shows that second point of access on Big Oak Road.

Mr. Murphy stated Mr. Wursta also recommended that a signal be considered at one of the two locations because he felt that given the traffic today and with the additional traffic to be introduced by these two new uses, that a signal would be warranted. Mr. Murphy stated Mr. Wursta has advised him multiple times that he has yet to review this issue with Chief Coluzzi; and it may be that the Chief and others may have an issue with the signal being located at a point he showed on the Plan as it is close to the existing signal. Mr. Murphy stated earlier this evening he spoke to Mr. Wursta, and Mr. Wursta indicated that he would be comfortable having the fully-signalized intersection at a location Mr. Murphy showed on the Plan but that would be subject to Chief Coluzzi and his staff looking at it.

Mr. Murphy stated he is present tonight to gauge the Board's reaction to the addition of these two uses. He stated from a use standpoint consistent with the Settlement Agreement, there is no issue with the addition of either of these uses. Mr. Murphy stated the Plan proposes one small Variance. He showed an area on the Plan adjacent to the abandoned road right-of-way that will be between 1' and 5' short of the minimum required side yard. He stated the way they could have adjusted that would have been to seek a re-classification of a portion of the wetlands that would adjust the wetland buffer and they would then not encroach in that area; however, given the fact that the right-of-way is abandoned, there would be less of an

impact and they would not want to delve into the wetland issue, and they would seek a Variance of the side yard in that one location. He stated other than that, they believe that the Plan is in compliance; and they are seeking the Board's endorsement so that they can move forward with this Plan.

Mr. Benedetto stated at the Planning Commission meeting held on November 14, 2016, he did not feel there was a lot of clarity around the Settlement Agreement, and the need to modify it since it did not say anything about a day care or restaurant. He stated Ms. Kirk indicated that it did not address those specifically. Mr. Benedetto asked if there would be a need to change the Settlement Agreement. Mr. Murphy stated during subsequent discussions, it was his understanding that no one felt there was a need to do that; however, he has not asked Mr. Truelove about that. Mr. Truelove agreed to look into that.

Ms. Reiss noted the location of the CVS, and she stated even though the signals might be close it might be better to have a signal since people make a left into the CVS. Chief Coluzzi stated they have not looked at this closely yet. Mr. Murphy stated they recognize that this still has to be looked into further.

Mr. Fritchey stated he feels that this an improvement over the first draft, and it should be referred to Chief Coluzzi and the Township solicitor.

Mr. Benedetto stated at the Planning Commission meeting, Mr. Bryson brought up issues with regard to stacking through the Dunkin' Donuts drive through. Mr. Murphy stated that has been completely revised based on comments from Mr. Bryson and Mr. Wursta, and the current Plan now shows stacking for nine cars without having any internal conflicts. Mr. Benedetto asked if they still contemplate 109 parking spaces; and Mr. Murphy stated the number is 104, and exceeds the minimum required by Ordinance for this combination of uses. Mr. Benedetto stated it indicated in the Planning Commission meeting Minutes that the Dunkin' Donuts would be the first in the market of approximately 360 stores to be Dunkin' Certified Green, and Mr. Murphy stated Mr. Glassman is present; and he indicated that it will be. Mr. Benedetto asked if Mr. Glassman is also the owner of the Dunkin' Donuts at the Corporate Center by the Hampton Inn, and Mr. Murphy agreed. Mr. Benedetto asked if it will have a similar design to that location, and Mr. Murphy stated it will have the Dunkin' approved design.

Mr. Benedetto asked the hours of operation for Lightbridge Academy, and Mr. Anthony Palagano stated it will be 6:30 a.m. to 6:30 p.m. Mr. Benedetto asked about the drop-off zone, and Mr. Palagano stated they will not have a drop-off zone. Mr. Benedetto asked if they are contemplating a playground; and Mr. Palagano agreed they are, and it will be 5,000 square feet.

Mr. Benedetto asked if the infrastructure out front is already installed, and Mr. Murphy stated it is. Mr. Benedetto stated the only concern he has is the traffic at the intersection since the area is congested already, and the experts should look into this; and Mr. Murphy agreed that they will look into this.

Mr. Lewis stated he feels this might provide an opportunity to work on the lights and move people through more efficiently. He stated in general he is supportive of the project, but one of the areas they should look at are walking paths from Regency to the Dunkin' Donuts. Mr. Murphy stated they would be willing to look into this; however, he added that there are challenges because of the wetlands and the wetland buffers.

Ms. Reiss stated with regard to the Day Care hours, someone may expect to be there by a certain time, but there could be traffic problems, and she stated she is sure that they have something set up as part of their business model when this would occur; and Mr. Palagano agreed. Ms. Reiss stated she is happy to see that rather than a 9,000 square foot building, this will be a 2,000 square foot building. She stated she assumes it will be one story, and Mr. Murphy agreed. Ms. Reiss stated she assumes that the tree buffer should buffer it from the residences; and Mr. Murphy stated it will, and they are not touching any of the buffer that exists in the rear. He stated it is protected as it is wetlands or a wetland buffer. Ms. Reiss asked about signage, and Mr. Murphy stated the intention is to comply with the Ordinance so they would not be looking for relief. He stated the only relief he knows of at this time is the small side yard from the abandoned right-of-way which he discussed earlier.

Mr. Alex Geiger, 1735 Mulberry Way, stated he is in Phase 2 of Regency. He stated Phase 1 is to the north of Big Oak, and Phase 2 is to the south. He stated they just started building Phase 2, but Phase 1 is almost finished. He stated Phase 2 is contemplated to be approximately the same size as Phase 1, and there will be approximately 180 to 190 units to the south of Big Oak which will generate a lot of traffic. He stated Matrix also has an approved development to the north right across the street from Phase 2 of Regency. He stated to the west of Regency is the Hovnanian development that has been completed with a few hundred units. Mr. Geiger stated there is a vehicular traffic issue and a pedestrian traffic issue. He stated the Regency Clubhouse and all the recreational facilities are to the north of Big Oak, and the people who live to the south which is potentially 400 people have to get across Big Oak Road to get to those facilities. He stated there was a previous discussion about there being a pedestrian crosswalk, but this would not be safe. He stated he goes there every morning, and the only way for him to get there is to drive which generates more traffic. He stated it is only 200 yards from his home; however, he cannot walk there. Mr. Geiger noted the location of the proposed Day Care, and he feels the children will want to go to the existing grassy field; however, Ms. Reiss stated in a Day Care situation, there would be a fenced playground for the

children there. Ms. Reiss stated she agrees that there needs to be a traffic signal so that people can cross the street. Mr. Geiger stated the logical location to put a signal is where the main entrance to Regency is which is directly across from the main entrance to the Matrix development. Mr. Geiger stated there should also be a continuous sidewalk along this entire stretch so people can walk, and there should be a traffic signal controlled crossing and not just yellow flashing lights since drivers do not pay attention to them so that people walking can safely cross. He stated he feels a comprehensive traffic study should be a requirement of approval keeping in mind all of the development that will be in this area.

Mr. Zachary Rubin, 1661 Covington Road, asked if the side yard of the Dunkin' Donuts abuts Oxford Valley Road, and Mr. Murphy stated it does not rather it abuts the Old Oxford Valley Road right-of-way that has been abandoned. Mr. Rubin stated there are five acres that are to be ceded over for open space and Toll Bros. agreed to put a pavilion in there, and he asked the status of this. Mr. Murphy stated the Deed conveying the property from Matrix to the Township is currently being prepared, and he expects the Township will have the Deed to the five acres within the next few weeks. Mr. Rubin asked what the plans are for the property once the Township owns it. Mr. Fedorchak stated they do not have plans formalized; however, a few months ago he had a meeting with Mr. Gary Cruzan and representatives from Toll Bros. providing Mr. Cruzan the opportunity to present what his recommendations and vision would be for the property. Mr. Fedorchak stated he asked Toll Bros., and they agreed, to cost these elements out; and he recently had a discussion with Mr. Keith Rattigan from Toll Bros., and he advised that relatively shortly they will provide the Township with a Sketch Plan and potential costs for what Mr. Cruzan was requesting that they consider. Mr. Fedorchak stated this would have to go to the Board of Supervisors and possibly they would have the Park & Recreation Board weigh in on as well as Mr. Rubin if he is interested.

Mr. Rubin stated the Township will get five acres of land along Old Big Oak Road, across from the back entrance to the CVS so it is on the south side, and there will be a pavilion there. Mr. Rubin stated this was part of the Court-brokered Agreement with Matrix. Ms. Reiss stated she brought up previously that while it is nice to have the five acres of open space, Mr. Cruzan had a plan for a pavilion which he felt would be a place that children could have parties at; however, there is no parking and no real access there. She stated people would have to walk through private property to get to the five acres. Mr. Rubin stated that was why he was asking if there was a plan. Ms. Reiss stated they did ask Mr. Cruzan about allowing Toll Bros. to instead build the pavilion at Memorial Park but he was not amenable to that, and he wanted it here. Ms. Reiss stated since Mr. Cruzan is the one who signed the Agreement, the Township's hands are tied. Mr. Rubin stated the brokered Agreement was signed by Matrix, Dana Weyrick, and Residents Against Matrix which is more than one person.

Mr. Mike Brody, 509 Brookbend Court, asked if the Dunkin' Donuts will be a drive through, and it was noted that it will be. Mr. Brody noted that this traffic pattern will be similar to the Wawa near Business Route 1, and he asked that they consider this. Ms. Reiss noted that the intersection at Route 1 and Oxford Valley is the busiest intersection in Bucks County.

Mr. Fritchey stated Mr. Murphy should discuss the issues noted with Chief Coluzzi, the traffic engineer, and the Township solicitor.

DEFERRING DISCUSSION OF HOW HOMEOWNERS CAN HELP PREVENT STORMWATER POLLUTION

Mr. Fritchey stated that due to the late hour, they agreed that this matter should be continued to a future meeting.

APPROVE CERTIFICATE OF APPROPRIATENESS FOR MAKEFIELD GLEN, 1703-1711 YARDLEY-LANGHORNE ROAD

Mr. Fedorchak stated the Historical Architectural Review Board reviewed design considerations with respect to Mr. Troilo's Makefield Glen development and unanimously recommended approval.

Mr. Lewis moved and Ms. Reiss seconded to approve the Certificate of Appropriateness for Makefield Glen 1703-1711 Yardley-Langhorne Road.

Motion carried with Mr. Benedetto abstained.

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and items of personnel, litigation, and information were discussed.

APPROVE ARTISTS OF YARDLEY REPAIRS TO JANNEY-BROWN HOUSE

Mr. Truelove stated an e-mail was supplied to the Board of Supervisors by Ms. Maggie Robinson of the Artists of Yardley with regard to HARB's approval of proposed repairs to the floors at the Janney-Brown House which he read into the record. Mr. Truelove stated at the request of Chair Tyler, he reviewed the Lease and it seems that these repairs would qualify as major repairs, and those payments would be approved in lieu of rent.

Ms. Kathleen Webber, Chair of HARB, stated there was a proposal for both the windows and the floors. She stated Mr. Hirko submitted a proposal for repairs and weather stripping of the window as well as replacing panes that needed to be replaced, and both HARB and the Historic Commission approved both of these projects. Mr. Truelove asked Ms. Webber if she is indicating that they approved all of these repairs and the costs and that they qualify as major repairs in lieu of rent, and Ms. Webber agreed.

Mr. Benedetto stated Mr. Hirko's presentation on the windows was very well received by HARB, and both of the projects are very much needed. He stated it was nice to see Artists of Yardley, HARB, and the Patterson Farm Preservation group with Mr. Hirko in particular working together.

Mr. Truelove stated the amount of money being considered would be \$6,775 for the windows, and \$5,040 for the floors for a total of \$11,815.

Ms. Webber stated they wanted to start the windows soon, but they would not be able to work on the floors until August which would be after Camp but before their fall events.

Ms. Reiss asked if any of this includes the kitchen repairs; and Ms. Webber stated it does not, and they will consider that in the future.

Mr. Lewis moved, Mr. Benedetto seconded and it was unanimously carried to approve the repairs and maintenance work as indicated and to allow those amounts to qualify as payment in lieu of rent under the Lease as major repairs.

Mr. Lewis noted the Artists of Yardley will hold their Luau on May 20, and information can be found about this event at the Artists of Yardley Web page. Ms. Reiss stated there is also a link on the Township page.

SUPERVISORS REPORTS

Mr. Fritchey stated the Sewer Authority met and it was reported that they received a communication from Mr. Warena that Morrisville is no longer considering the Solvay site, but they still want to build a new plant. He added that instead of the \$117 million price tag they had applied to the Solvay site which they did not own, they are proposing to spend \$150 million on another brownfield site that they have not identified and presumably do not own.

Ms. Reiss stated Farmland Preservation is still working to remediate bamboo and they have spoken to Mr. Majewski about neighbors with bamboo.

Mr. Benedetto stated the Electronic Media Advisory Commission is in the process of reviewing the new Website, and they will distribute an e-mail to the Board soon to review that new Website. Mr. Benedetto stated Mr. Lewis has offered to be the point person for that and will compile the changes into one document.

Mr. Benedetto stated the Trenton Mercer Airport Task Force is reviewing independent, third-party law firms and consulting firms; and the consulting firm would coordinate with the law firm. He stated they would like to be placed on the Agenda on May 17 and make a recommendation at that time as to who the Township should hire.

Mr. Truelove stated he received an e-mail from Mr. Potter several days ago indicating that if his client and he did not receive additional financial support from the Township by May 5 that he would be withdrawing from the case and would not be participating in the Brief filing due May 14. Mr. Truelove read Mr. Potter's e-mail into the Record including the statement that if he does not receive additional funds, he would be withdrawing and will dismiss the pending Appeal. Mr. Truelove stated this matter was discussed with the Board as requested by Mr. Potter as part of the litigation discussion during Executive Session. Mr. Truelove stated that one of the challenges the Township has faced throughout this process is that there has been a Confidentiality Agreement between BRRAM and the FAA as part of the negotiations, and the Township had no idea what has been going on there.

Mr. Fritchey stated the Township had no idea what their position was, what was offered, what was rejected, or potentially what is on the table. Mr. Fritchey stated when you are an attorney and represent a client and have a lawsuit going on, you do not get to withdraw simply for the asking; and you have to request the Court to allow you to withdraw, and while the Court typically grants that request, it does not necessarily have to. Mr. Fritchey stated with respect to dismissing a lawsuit, that is not the sole prerogative of the attorney, rather it is the prerogative of the client; and the client can agree to continue the litigation with new counsel or even without counsel should they choose. Mr. Fritchey stated the Township's decision not to fund the current counsel does not mean that they have dismissed the case. Mr. Truelove agreed with Mr. Fritchey's statements.

Mr. Benedetto stated the Task Force is doing a two-pronged approach one being the legal approach which is the independent, expert review recommendation which they will make at the May 17 meeting. He stated they did speak to a consulting firm who recommended an attorney who has worked on these types of cases.

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Mr. Benedetto stated there is also the political approach, and the Task Force did make a second request to Brian Hughes on April 25 requesting a meeting although they have not heard from him. Mr. Benedetto stated they also reached out to other political figures.

There being no further business, Mr. Lewis moved, Mr. Benedetto seconded and it was unanimously carried to adjourn the meeting at 1:10 a.m.

Respectfully Submitted,

John B. Lewis, Secretary