

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – JUNE 7, 2017

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on June 7, 2017. Ms. Tyler called the meeting to order at 7:35 p.m.

Those present:

Board of Supervisors: Kristin Tyler, Chair
 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

PROCLAMATION RECOGNIZING LOWER MAKEFIELD TOWNSHIP RESIDENT JOSEPH LINGLE FOR HIS ACCOMPLISHMENTS AS STARTING GOALTENDER ON THE TEAM USA GOLD MEDAL WINNERS AT THE WORLD DEAF ICE HOCKEY CHAMPIONSHIP

Ms. Tyler read the Proclamation into the Record, and Mr. Lingle was congratulated for his accomplishments.

ANNOUNCEMENT OF LOWER MAKEFIELD HISTORICAL SOCIETY ANNUAL MEETING

Ms. Reiss stated the Lower Makefield Historical Society in cooperation with the Artists of Yardley will hold its Annual Meeting on June 11 from 3 p.m. to 5 p.m. at the Patterson Farm on Mirror Lake Farm, and it is open to the public. She stated they will have an exhibit of Yardley/Makefield past and present with photographs and other historic memorabilia. She stated they will have a special guest, Carl LaVO, who will give a local interest presentation. She stated his recent book, Bucks County Adventures, will be available for sale at the event. She stated an original print featuring the Patterson Farm will be raffled, and raffle tickets can be purchased on Sunday. She stated they will serve refreshments. Ms. Reiss stated the farmhouse is accessible; but anyone who has special needs can contact Ms. Pat Miiller at 215-806-2802.

PUBLIC COMMENT

Mr. James Kirlin, 723 Gordon Drive, stated he is on the Fundraising Committee for the Friends of Lake Afton. He stated they are looking to increase the quality of water and wildlife at Lake Afton, and they will have a fundraiser this Sunday at Simply Stunning Hair Studio at 25 E. Afton Avenue in Yardley from 10 a.m. to 5 p.m. where they will be cutting hair with the funds being donated to the Friends of Lake Afton. There will also be a 50/50 raffle during the day as well as chances for a Day of Yardley gift basket. He stated members of the Trenton Thunder will be there getting their hair cut and signing autographs. Food and light beverages will be available. Additional information is on their Website LakeAfton.org as well as on the Lower Makefield Township Website with a link.

Mr. Harold Kupersmit, 612 B. Wren Song Road, expressed concern with the U. S. Congress and Pennsylvania Legislature and his concerns about health care.

Mr. Tim Collins, 479 Jenny Drive, asked if the Township has an Ordinance regarding residents blowing grass clippings into the street adding last month the Township engineers made a presentation about the importance of keeping grass clippings out of the storm sewers. Mr. Truelove stated he believes there is one about leaves and yard waste in general, but he would have to look into this. Mr. Collins stated some of his neighbors are blowing all of their grass into the street around the storm sewer, one of which has already become clogged; and he has cleaned it out twice. He stated if there is not such an Ordinance, the Township should have one. Ms. Tyler stated they will look into this.

Mr. Collins stated the streets in his neighborhood are scheduled to be paved, and he has a depression in front of his house which collects water; and he asked if they will try to level that out when they pave. Mr. Eisold stated typically they mill the streets first and address the low areas, and he described the process they follow.

Mr. Collins asked if there is a Committee he could become involved with which deals with the Township Golf Course. Ms. Tyler stated there is a Golf Committee which meets regularly. Mr. Lewis stated their meeting dates are listed on the Township Website where they discuss the financial performance of the Course, Course quality, and the food and beverage operations. Ms. Tyler stated those meetings are open to the public.

Mr. Richard Adams, 221 Taylorsville Road, asked if the date of the next Electrical Reliability Committee will be listed on the Township Website, and Ms. Tyler stated it will. She stated she is meeting tomorrow with PECO and some members of the Electrical Reliability Committee. Ms. Tyler stated they will schedule their follow up meeting after that, and she will advise Mr. Adams of that date by e-mail. She stated

Mr. Adams' concerns will be part of the topic of tomorrow's meeting. Mr. Adams asked if the results of the Township form, a copy of which he was provided and sent to PECO, that were submitted in previous years of outages available for the Maplevale development. Ms. Tyler stated getting information from PECO on sections has been troublesome, and the reason why she drafted the form letter is because they have to have the individual residents make the request on a particular property. She stated they do have reliability reports and other information, but she is not sure they have any on Maplevale. Ms. Tyler suggested that Mr. Adams provide a copy of the form letter to his neighbors. Mr. Adams stated he is looking for beyond the past three years. He stated he feels Maplevale has had many less outages than he has had on his side of the street; and they are getting the remediation, and he is not.

Mr. Lewis stated he believes he would be on the circuit called Linton 341, and Mr. Adams stated the circuit he is on is Morgan 002. Mr. Lewis stated when his power goes out, the lights in Maplevale are still on. Mr. Lewis stated Mr. Adams can request a reliability report from PECO, and that will give him the dates, times, and causes of the outages for the past three years although it will not give a "blip" outage. Mr. Lewis stated PECO has installed reclosers, and he described what they do. Mr. Lewis stated if Mr. Adams is in an area where he gets consistent outages, he should get the report and provide it to the Electrical Reliability Committee so they can follow up with PECO on that. Mr. Adams stated if a tree branch falls and cuts the wires, a recloser is not going to help. Mr. Lewis stated PECO has also done significant tree trimming; however, Mr. Adams stated they have not on his side of the street. Ms. Tyler stated Mr. Lewis did not see Mr. Adams' letter, and she stated Mr. Adams has recurrent outages; and they provided the request letters to Mr. Ted Dorand at PECO. Mr. Adams stated Mr. Dorand has acknowledged receipt of the letter, but he has not yet provided any information.

Mr. Adams noted the land behind Taylorsville Road where there are sixteen homes in the Prospect Farms development, and the land behind the northernmost six homes was deeded to the Township. He stated there are tall trees there that have taken out the top wire a few times, and he asked if the Township is going to take the trees down to ground level as they did at Maplevale. Ms. Tyler stated they will have Public Works go out there to look at that situation.

Mr. Benedetto stated they are getting reports that those watching the meeting from home cannot hear the meeting. A short recess was taken at this time so that Mr. Kelliher could attempt to correct the problem with the audio. The meeting was reconvened at 8:05 p.m.

Mr. Mark Paroly, 221 Grant Way, asked when the Dunkin' Donuts will be considered, and Mr. Benedetto stated they were going to look into the traffic issues that were discussed as there may need to be a light at the intersection where the CVS is so that there could be a crosswalk. He stated there was also a concern about back-up traffic. Ms. Reiss stated they wanted to consider how they could cross back and forth safely. Mr. Paroly stated that would especially be true for the people in the carriage homes. Ms. Tyler stated no approvals have been granted. Mr. Benedetto stated it goes first to the Planning Commission before it comes to the Board of Supervisors and the Planning Commission did not yet make a recommendation. Ms. Tyler stated they were only at the Sketch Plan stage, and they will make a formal Application to the Planning Commission and possibly the Zoning Hearing Board before it comes to the Board of Supervisors. Ms. Tyler stated the Township solicitor and the Township engineer would also review it. Mr. Paroly asked when they would take public input, and Ms. Tyler stated that would be all throughout the process. She stated he should go to the Planning Commission meeting when this is considered as well as the Zoning Hearing Board if there are Zoning issues.

Ms. Christine Tentilucci, 1014 Lafayette Drive, stated she is present again about the issue of the buffer that was illegally cleared on the property behind her house which is still an open issue as it happened in March, 2016. She stated she has been sending e-mails and making phone calls trying to get this resolved. She stated she feels the Township is letting this individual "drag his feet," and nothing has been enforced. She stated when he finally did do something in November of last year, it was inadequate. She stated she had to contact the Township again, and the engineer confirmed that what was done was not right. She stated what the homeowner did was ineffective, unnatural, and unattractive. She stated she feels the Township should dictate what he should do and when.

Mr. Benedetto stated he agrees that this has gone on too long, and he feels this individual should be fined. Mr. Benedetto stated he, Mr. Truelove, and Mr. Eisold have all been out to the property. Ms. Tentilucci stated she has been hearing all the right things and promises, but it has not been taken care of. Ms. Reiss stated there has been a change in the Planning and Zoning person because of things like this that were taking a little longer than they should have. Ms. Tyler stated Ms. Tentilucci did receive a response from Mr. Majewski, the Township's Zoning Manager, about the inadequacies of the November, 2016 remediation.

Mr. Fedorchak stated on May 16 members of the Boucher & James staff including Valerie Liggett who is a Certified Arborist met with the property owner, Mr. Andrew Dwight. Mr. Fedorchak stated they reviewed all the deficiencies with respect to the plantings Mr. Dwight installed some time ago, and they were very specific about what he needed to do to improve what is there now, and bring it in compliance with the corrective landscape plan that they had proposed and had

been agreed to some months ago. Mr. Fedorchak stated it is the Township's understanding that Mr. Dwight responded affirmatively to all of the items that were identified by Boucher & James, and Mr. Fedorchak stated he understands Mr. Dwight has contacted a contractor; and they will be moving forward. Ms. Tentilucci stated this is what she was told a year ago.

Mr. Fedorchak stated Mr. Majewski is the new Director of Planning & Zoning; and when he came on board, there were a number of loose ends that he wanted Mr. Majewski to begin to address, and this was on the top of the list, and he has been coordinating the efforts and has assured Mr. Fedorchak he will stay on top of it and get it moving forward as should have been done some time ago.

Mr. Lewis asked if they sent Mr. Dwight a Notice of Fining about a month ago; and Mr. Fedorchak stated while a Notice was sent out, he is not sure exactly what the nature of that Notice was. Mr. Lewis apologized to Ms. Tentilucci that the Township has not done better on this. He stated he is very strict about Code Enforcement, and he understands the fine is upward of \$7,000 in this particular case. He stated if they have set a process in motion he is not sure what else can be done, and he asked Mr. Truelove if they could place a deadline if the trees are not planted and the issue is not resolved. Mr. Truelove stated he understands that in order to plant some of the plants that were to be replaced the growing season had to resume, and it was not appropriate to do it during the colder season which resulted in some delay. He stated there was also an issue as to whether Mr. Dwight had received some of the notices that were prepared to be sent out, and there may have been some delay because of that issue. Mr. Truelove stated Mr. Dwight has made assurances that he has promised to follow through on this. Mr. Truelove stated he feels there should be a definite timeline to follow up; and if he does not do so, they would then be able to move ahead.

Mr. Lewis asked if they should have a Motion that should Mr. Dwight not meet his requirements by June 30 that they would seek injunctive relief in Court; and Mr. Truelove stated they could do that provided that timeline makes sense from a planting perspective. Ms. Tentilucci stated if this were taken care of months ago when it should have, the final plans would have been ready in January so that they could be ready to plant in April. Ms. Tyler stated while this is correct, they are trying to deal with this moving forward so that it is resolved to Ms. Tentilucci's satisfaction.

Mr. Eisold stated he believes he saw something from Ms. Liggett that they are getting ready to move forward with the plantings in the next few days. Ms. Tyler asked that Mr. Truelove review the process with Mr. Majewski and move forward in an aggressive manner so that this does not linger. She stated if there is an issue with the plantings, they need to communicate with Ms. Tentilucci.

Mr. Benedetto stated he feels since there is money in the Tree Bank, the Township should have done it, and then had Mr. Dwight give the Township the money back since he has “been dragging his feet and he had no sense of urgency.” Mr. Benedetto stated it is “disgraceful” to walk out Ms. Tentilucci’s back yard and look directly into the other property and see no buffer for fifteen months.

Mr. Fritchey asked who was the last person to speak to Mr. Dwight, and it was noted it was Mr. Majewski. Mr. Fritchey asked if specific promises were made; and Mr. Truelove stated he does not know if there was a deadline imposed, but from the e-mail he saw, there was an agreement that Mr. Dwight would be installing certain plantings that had been identified. Mr. Truelove stated given the planting season, it would make sense to do that in a timely manner. Mr. Fritchey stated he feels they should come up with a deadline for Mr. Dwight to accomplish what he is supposed to do, and he asked Mr. Eisold to check with Ms. Liggett to make sure they are not asking him to do something that is horticulturally impossible. Mr. Fritchey stated they should give him a date specific; and if he does not comply, the Township will pursue the options they have in District Court. Mr. Truelove stated he hears that the consensus of the Board is that they should send a letter to Mr. Dwight for that purpose. Mr. Fritchey stated they do not want Mr. Dwight to plant things that will die because they are being planted in the wrong season.

Mr. Benedetto stated any communications should also include Ms. Tentilucci.

Mr. Lewis moved and Ms. Reiss seconded that the Board direct the solicitor to contact the Director of Planning and Zoning and the Township engineers and communicate with Mr. Dwight that he has a deadline of June 30 to complete and resolve all outstanding issues related to his prior violation of Township Ordinances; and that if it is not finished by June 30, that the Township will seek all legal remedies to the maximum extent of the law, and will visit on June 30th to see how things are coming.

Mr. Fritchey stated he would be in favor of this provided the answer they get from the arborist is that this is the right thing to do. He stated he would be in agreement provided it was conditioned upon it being horticulturally sound.

Mr. Lewis agreed to accept an Amendment that it be subject to the approval of a Certified Arborist with Boucher & James. Ms. Reiss agreed to Second the Amendment.

Motion as Amended carried unanimously.

Ms. Lisa Baxter, 208 Arborlea Avenue, stated the Elcon Application was returned because of discrepancies. She stated this does not mean that it is rejected, and Elcon has unlimited time to go back and reapply. Ms. Baxter noted the Wawa in Falls Township where it will effect the Pine Grove section in Lower Makefield Township, and she asked if the Board is working with Falls Township on this. Mr. Benedetto stated he had a discussion with Bob Harvie, and they are required by PennDOT to do a traffic impact study. Ms. Tyler asked Mr. Fedorchak to send a letter to the Falls Township Supervisors requesting that Lower Makefield be provided with a copy of the traffic study once completed so they have an opportunity to make comments.

Ms. Hannelore Mckenna, 1001 Wood Street, expressed concern with the constant speeding on W. Ferry between Big Oak and Cherry Street. Chief Coluzzi agreed to look into this during the rush hours.

APPROVAL OF MINUTES OF MAY 17, 2017

Mr. Lewis moved, Mr. Benedetto seconded and it was unanimously carried to approve the Minutes of May 17, 2017 as written.

Mr. Truelove stated on May 30, 2017 the Board of Supervisors conducted an Executive Session commencing at 6:30 p.m. and informational items were discussed.

Mr. Truelove stated this evening the Board met in Executive Session commencing at 7:00 p.m. and informational items, personnel items, and litigation involving the Airport matter were discussed.

APPROVAL OF AGREEMENT FOR LEGAL SEVICES WITH BUCHALTER RE: TRENTON-MERCER AIRPORT

Mr. Truelove stated several weeks ago he and the Task Force were asked to do a review of potential candidates to represent the Township as special counsel on Airport related matters linked to the Trenton-Mercer Airport. Mr. Truelove stated he and Mr. Kakoyiannis of the Task Force separately interviewed two candidates who were recommended by the Task Force one being Mark Atwood from the Washington D.C. office of Cozen and O'Conner and the other being Barbara Lichman who is an attorney with Buchalter in California. He stated after review and discussion, background checks, referencing, and preparing the proposed Retainer and other information, it was their joint recommendation that the Township retain

the services of the Buchalter law firm, and Ms. Lichman has already undertaken some work for the Township given the pending actions in Federal Court. Mr. Truelove stated the Retention Agreement was circulated previously to the Supervisors and the Task Force members. Mr. Truelove stated Ms. Lichman has vast experience in this area all over the Country including the Third Circuit. He stated she also has experience as a Lobbyist and has a lot of contacts in the aviation industry and in Congress. Mr. Truelove stated she has already been in contact with Mr. Potter, but she is not limiting her scope on her recommendations going forward.

Ms. Joanne Guiniven, 986 Cultipacker Road, stated she is the Chair of the Airport Task Force; and they recommend that they hire Ms. Lichman who has already been helpful.

Mr. Benedetto moved and Mr. Fritchey seconded to approve the Agreement for legal services with the Buchalter law firm regarding the Trenton Mercer Airport.

Ms. Guiniven asked what will be happening about vetting George Williams, and Mr. Truelove stated he was not charged specifically with that as he was working on the legal side. Mr. Benedetto stated Mr. Williams was the consultant that was recommended; and Ms. Guiniven stated he was formerly with the FAA, and he is now an independent consultant. Ms. Tyler stated she would defer to the special counsel as to the need. Ms. Guiniven stated Ms. Lichman was the one who recommended Mr. Williams to the Task Force and has worked with him. Ms. Guiniven stated the reason this is important is because Mr. Williams can make the position paper much more powerful so the sooner they have his input, the sooner the position paper they are working on with the politicians will “hold more water.” Mr. Truelove stated he will contact Ms. Lichman tomorrow about this.

Mr. Joe Menard, 917 Putnam Drive, stated he attended the Freeholders’ meeting last evening because as part of their Agenda they had an item for discussion about the Trenton Airport. Mr. Menard stated the Task Force has been trying to understand why there is not more response from the Mercer County residents who are just as effected as Lower Makefield residents, and approximately forty Mercer County residents were present at that meeting last night. Mr. Menard stated he is trying to get transcripts from that meeting as it was telling to see the level of frustration of the residents and what they are seeing from being adjacent to the Airport as well some of the other actions that the Mercer County Board has taken recently.

Mr. Menard stated one of these activities was the Open House on the 24th, and there was significant criticism about the fact that they had twelve stations where they had different people from the consulting firms manning the stations and answering questions; however, no one got a sense of everything that was going on because you

were in individual lines to speak to specific people. Mr. Menard stated it was expressed last night that it probably was done purposely that way so that people would not have a complete understanding of what the Plan was.

Mr. Menard stated also at the Freeholders' meeting last evening, it was apparent that the Freeholders do not really have a handle on what the process was; and they were shocked by some of the things people were saying which means that administratively someone is running this. Mr. Menard stated one of the Freeholders actually lives in the area being effected; and while she says she is in favor of the Airport expansion because it is needed, she also wants it done responsibly. Mr. Menard stated while they all stated this, the direction they are letting the management take is not conducive to good management. Mr. Menard stated some residents indicated that the notice of the meeting was totally insufficient. He stated they were also told that their trees would be cut, and they would be given free sound proof windows; but they did not tell the residents that they would be giving up all their air rights for any trees being cut down. He stated the full impact of how and why this was being done was not told to the people they were reaching out to in order to have their trees cut for free.

Mr. Menard stated he did not ask last night, but he will contact them about why they would have this voluntary purchase of some of the homes since he questions what good that will do if they are only able to get some of the homes. Mr. Menard stated he feels they are going to buy what they can, and then go back and do eminent domain for the rest in order to extend the runway.

Mr. Benedetto stated he understands they sent letters to eighteen homes in West Trenton; however, Mr. Menard stated he did not know the number.

Mr. Menard stated Mr. Kakoyiannis and Ms. Guiniven put together information which had been provided to the Board, and they will update this with the new information they just received today. He stated they will have a Task Force meeting tomorrow night when they will discuss a number of issues. Mr. Menard stated he did advise the forty residents that were present at the Freeholders' meeting last evening what Lower Makefield is doing, and he indicated the Lower Makefield Task Force would be willing to go to New Jersey to meet with their residents so that they can join forces.

Mr. Brendan Monaghan, 1585 Harvest Drive, stated there is a deadline of June 10 for the Master Plan that was distributed and discussed in Trenton. He stated they are encouraging participation in the process. Mr. Monaghan stated everyone should email Urban Engineers at 530 Walnut Street, Philadelphia, 19106 with comments on any aspect of the Airport. He stated their email is Trenton@mjinccom with the Subject Title – Trenton Master Plan. He left copies of the Comment Sheet.

Mr. Benedetto asked that this be put on the Township Website as well. Ms. Tyler asked if the Task Force is submitting comments, and Ms. Guiniven stated they are. Mr. Benedetto asked if Mr. Lewis would re-submit his letter that he submitted in the initial comment period on behalf of all the Supervisors. It was noted that time is important since the deadline is June 10.

Mr. Menard stated at the Freeholders' meeting when it was demonstrated how improperly they were holding the meetings, and they did not know what was going on, he advised them that Brian Hughes would not accept the letter sent by the Lower Makefield Task Force to let them know that their staff was refusing to communicate with the public.

Ms. Sue Herman stated at the Master Plan meeting there was a very compelling speaker who indicated a lot of the people effected were elderly, and she feels it is "unconscionable that Mercer County is preying on elderly people."

Ms. Herman read into the Record Regional Traffic Solutions, Inc. (R.R.T.S.) May 31 letter to the Board of Supervisors (attached to the Minutes) regarding the Trenton Mercer Airport asking the Supervisors to submit comments by the June 10 deadline and to confer with counsel as to how to best compel Pennsylvania politicians to submit comments as well. She also discussed the fact that the Delaware Valley Regional Planning Commission (DVRPC) is a major proponent of the Trenton Mercer Airport being an International Airport. She made comments about the DVRPC having to do with transportation issues unrelated to the Airport. Ms. Tyler expressed concern with the comments being off the topic; however, Ms. Herman was permitted to complete reading her letter. Ms. Tyler thanked Ms. Herman for her comments and added she feels the Board has a very effective plan in process.

Mr. Kupersmit stated he agrees with the comments made by Ms. Herman.

Ms. Holly Bussey, 20 Knoll Drive, thanked the Task Force for getting Lower Makefield to move on this. Ms. Bussey stated what is going on in Mercer County is not unusual, and the Mercer County Freeholders are not "conscientious and are disingenuous." Ms. Bussey asked what the process will be in light of the acceptance of counsel in reporting progress to the residents. Ms. Tyler stated it will depend on the litigation and strategy, which were the same concerns BRRAM had. She stated they will report everything they can report to the public as they move forward. Ms. Bussey asked how the Township will make available in an accountable way as to how tax dollars are being spent, and Ms. Tyler stated it will be in the Budgeting process and annual reports the same way the Township keeps track of all expenses.

Mr. Mike McVan, 1357 N. River Road, stated he feels there is a lack of responsibility on the part of the Airport at the current time and it will get worse. He stated on Memorial Day Frontier airplanes flew over his home in the evening at 5:47, 5:50, 5:51, 5:54, 5:57, 7:16, 7:21, 7:23, 7:39, 7:41, 8:41, 9:05, and 11:30. Mr. McVan stated he has been putting in complaints constantly. He stated he has also written a letter to Representative Warren who indicated he was just concerned about noise mitigation; however, Mr. McVan stated there are constant planes. He stated at the meeting they had indicated that they have one plane every forty-five minutes, and this is not correct. He stated now they will expand and have one plane every six minutes.

Mr. Benedetto stated Mr. McVan has raised awareness, and he encouraged him to contact Congressman Fitzpatrick's office as well.

Ms. Bussey stated when they send letters to the engineers they should send a copy to the Legislators and to also keep a copy themselves. She stated the engineers are not acknowledging receipt of e-mails; and as this goes forward, you may be required to show that you did indeed make comments.

Mr. Lewis asked Mr. McVan and others to enter their noise complaints on the following Website where he knows that they are being received: 63.68.152.17/noise.asp; and he also asked that this be posted on the Township Website. Mr. McVan stated you can do this on the BRRAM Website. He stated he is concerned with the potential expansion as they are not responsible even at this time.

Ms. Guiniven stated all the responses received by June 10th have to be published with their final report so the more that are sent, the better it will be.

Ms. Herman asked that the noise/Airport link also be put on the Lower Makefield Township Website as that would be helpful to residents or they could link the BRRAM site. Ms. Herman asked that the Task Force write something up and provide it to Mr. Fedorchak so they can put it on the Township Website.

Motion carried unanimously.

APPROVAL OF ENGAGING GLLIAN AND HARTMAN, INC. FOR REGENCY AT YARDLEY MOLD CONCERNS

Mr. Greg Hucklebridge, Public Works Director, stated concerns were raised regarding apparent mold and associated air quality concerns with residential units being built by Toll Bros. at the Regency at Yardley Development. He stated he solicited proposals from area environmental consulting engineering firms,

to perform a detailed engineering review of correspondence documenting concerns from residents as well as reports and letters from Toll Bros. and their consultants regarding this matter. Mr. Hucklebridge stated this proposal is also to include scope of work, provide recommendations for potential follow-up engineering and assessment tasks that could be provided in the future. Mr. Hucklebridge stated based on the proposals, he would recommend engaging Gillan and Hartmann, Inc. and to include the specialty consultant to Gillan and Hartmann.

Mr. Benedetto asked Mr. Hucklebridge his reasons for choosing this firm. Mr. Hucklebridge stated they are only looking for recommendations as to what may be needed in the future, and are not performing actual testing at this point. He stated he solicited three firms, one of which backed out since they do not do residential at this scale and the other did not have a good handle on the scope. He stated Gillan and Hartmann had a good understanding of what the Township wanted. He stated he included their proposal in the Board's packet. Mr. Benedetto asked that they notify the residents by letter about this, and Mr. Fedorchak stated he was planning on doing this.

Mr. Fritchey asked what they will be looking at. Mr. Hucklebridge stated he provided them correspondence and other attachments including reports from the environmental services company that Toll Bros. has engaged, and they are to look at all of that in more detail. Mr. Fritchey stated he feels one explanation is that certain homes have ventilation problems either in the entire home or in certain areas of the home. He stated he is also concerned that the Township may have properly granted Certificates of Occupancy based on the current Codes, but there may be gaps in the Codes that allow for residences to be built that are in some ways defective in a general sense even though they may comply with the Codes. Mr. Fritchey stated he would like to know if the homes are "too tight," and if in the interest of energy efficiency, the homes do not properly ventilate. He stated he is also concerned that to the extent that they do have ventilation systems, are these ventilation systems properly installed. He stated he would also like to know whether or not dehumidification systems could remedy this problem. Mr. Fritchey stated they are proposing to build another hundred plus houses in the same area; and if they build houses in the same fashion, they may have the same problems. Mr. Fritchey stated he does not feel Toll Bros. has shown much inclination about determining the cause.

Mr. Hucklebridge stated Gillan and Hartmann are mechanical, electrical, and plumbing specialists; and they are not just environmental engineers. He stated they will be able to look at all the items Mr. Fritchey has discussed.

Mr. Mark Paroly asked if the letter going out to the residents will indicate what the firm will be doing; and Ms. Tyler stated it will let them know who they have retained and the scope of their retention. Mr. Paroly stated there were some residents who

felt that the study that was done previously did not cover some areas so they would like to know exactly what it is that this firm will be doing. He also asked if there is a deadline when the information will need to be back. Mr. Hucklebridge stated he did not discuss timing with them, and at this point they want Gillan and Hartmann to look into what was done and what should be done in the future. Mr. Paroly asked if the residents who had their homes tested will be contacted. Mr. Benedetto stated he does not want the residents contacting Gillan and Hartmann, and the Township would coordinate any contact as there were residents who have been impacted and would like to be a part of the process.

Mr. Lewis stated when they last discussed this matter, one of the residents agreed to buy a dehumidifier; and he would like to get information on all the residents of the community who purchased dehumidifiers to see if that resolved the mold issue. Mr. Lewis stated he understands at this point there are only a few homes that have a bad issue with this; however, Mr. Paroly stated while there a few homes that have a dramatic impact, there are seventy-five homes that have some level of the problem, his home included.

Mr. Benedetto stated there should be someone in the community that the Township can contact, and Mr. Fedorchak stated he has contacted Ellen Slepion about this already.

Mr. Tim Collins, 479 Jenny Drive, stated there is a fairly large development in South Jersey which has been built by Toll Bros. that the Realtors have put on the “black list” for resale because of significant mold issues. He stated Toll Bros. already has an \$85 million insurance policy to cover anything under warranty of twelve years or less so it appears that Toll Bros. has some issues.

Mr. Fritchey moved, Ms. Reiss seconded and it was unanimously carried to engage Gillan and Hartmann, Inc. for the Regency at Yardley mold concerns.

APPROVAL OF PROPOSED TREE TRIMMING ALONG EDGEWOOD ROAD RIGHT-OF-WAY

Mr. Hucklebridge stated concerns were raised about dead and dying limbs hanging over Edgewood Road between Oxford Valley Road and Morrisville-Yardley Road. He stated he consulted with Mark Malone, certified arborist and owner of Sharp Cut Tree Care, to tour the area of concern. Mr. Hucklebridge stated Mr. Malone advised that it is not unusual for trees in close proximity to utility lines being maintained by PECO contractors to experience the issue they are noticing. It was recommended to trim back the tree branches hanging over Edgewood Road which are posing a safety hazard. He stated there are eleven trees to be trimmed on nine properties, and they

are not proposing to remove any of the trees. He has prepared a letter in a draft format which he had provided to the Board, and he would like to send this out to the effected property owners notifying them.

Ms. Tyler thanked Mr. Hucklebridge for identifying this problem that could be a significant safety concern to the residents.

Mr. Hucklebridge stated the proposal from Sharp Cut Tree Care is in the amount of \$2,475 to trim the trees back to inside the right-of-way line. Ms. Tyler asked that when they do the trimming they also note the health of the tree; and if they need the assistance of Ms. Liggett from Boucher & James, they can coordinate this with Mr. Eisold to make sure that the trees should remain standing.

Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously carried to authorize the tree trimming as outlined by the Public Works Director.

APPROVAL OF AGREEMENT WITH TOLL BROTHERS RE: REVERE ROAD TENNIS COURTS REPAIR AT YARDLEY HUNT

Mr. Truelove stated Mr. Fedorchak received a proposal from Mr. Rattigan of Toll Bros. for the payment of \$40,000 pursuant to an Agreement that had been entered into for the repair of the Revere Road tennis courts. Mr. Truelove stated as he felt the proposal seemed broad, he revised it to limit the release of liability to the tennis court surface and subsurface; and he asked that the Board approve this. He will prepare the final copy and forward it to Mr. Fedorchak tomorrow for his signature if the Board authorizes this.

Mr. Fritchey moved and Ms. Reiss seconded to authorize the execution of the Agreement with Toll Bros. regarding Revere Road tennis courts as outlined by Mr. Truelove.

Mr. Jim Brandau stated he was the neighbor who was opposed to the Revere Road tennis courts; however, he feels they look fine, and he was pleased with how the Township did the buffering. He stated when he went to the Park & Rec meetings in 2015 as well as some of the Supervisors' meetings last year, there was discussion about holding Toll Bros. accountable for the debris field that was underneath the tennis courts as well as some other areas. He stated there was discussion about what would happen if there were problems in the future under the tennis courts; and the engineers did a study, and they indicated that it was unlikely that there would be problems. Mr. Brandau stated he does not feel anyone can say that there will never be any other problems in the future. Mr. Brandau asked who would be responsible if there were problems at the tennis courts in the future, and Ms. Tyler

stated she believes that the Township would be responsible. Mr. Brandau stated he would not want there to be abandoned tennis courts behind his property for another five years, and he feels this should be considered in any agreement that is reached with Toll Bros.

Mr. Fedorchak stated prior to the Township moving forward to making the final repairs to the tennis courts, there were a number of test pits dug throughout the entire area; and Boucher & James provided the oversight, and he feels with a high degree of confidence they do not believe there is any more debris immediately under the tennis courts although they would not say that for the rest of Yardley Hunt.

Mr. Brandau asked why they would not ask Toll Bros. to indemnify the Township for future damage to the tennis courts and future subsidence on that property. Mr. Truelove stated his understanding is that the Agreement is premised on the studies that were done by Boucher & James, and he does not feel they would pay the Township \$40,000 if they were going to be required to come back in the unlikely event that this could reoccur. He stated he feels that this is the trade off that the Township is contemplating entering into tonight. Mr. Truelove stated they are releasing Toll Bros. just for the tennis court area. He stated if Toll Bros. does not want to sign the Agreement the way it is worded, the Township would then have to reconsider this. Mr. Brandau stated he does not feel this is holding Toll Bros. accountable, but it seems that the Township feels \$40,000 is adequate. He stated he does not feel it is a good idea to release Toll Bros. since there is always the possibility of future damage.

Mr. Fedorchak stated as he reported to the Board previously, they have identified the future risk to the best of their ability; and they feel that there is very minimal risk. He stated as to the \$40,000, the reconstruction of all of the tennis courts cost the Township approximately \$75,000. He stated the area of the courts that was effected by the fill material was an area less than one tennis court, and originally there were four courts there. He stated Toll Bros. has therefore provided an amount that was half of what the repairs costs which is actually more than what was the effected area. Mr. Fedorchak also stated that the courts were approximately twenty-five to thirty years old, and he feels that the courts did need a lot of work. He stated he feels the \$40,000 contribution is fair given the total project cost of \$75,000.

Mr. Fedorchak stated Toll Bros. removed all of the debris which was construction materials that had been placed there, and backfilled it in accordance with what Boucher & James felt was best engineering practice. Mr. Fedorchak stated in addition to that location there were three other sites within Yardley Hunt that also had problems all caused by construction material. He stated in every case, Toll Bros. stepped in very quickly and got the releases they needed from the property owners.

Mr. Fedorchak stated throughout the two-year process Boucher & James was involved in the process to make sure that Toll Bros. complied with all requirements. Mr. Fedorchak stated Toll Bros. restored those properties to the homeowners' satisfaction. He added that the Township received 100% reimbursement from Toll Bros. for all Township expenses associated with this cleanup effort.

Mr. Paroly asked if they put down a new blacktop surface over the tennis courts. Mr. Fedorchak stated the Township put down the blacktop surface. He stated Toll Bros. removed all the construction material and backfilled everything, and then the Township took over and made the final repairs to the tennis court; and this was the \$75,000 cost that he had cited.

Motion carried unanimously.

Mr. Benedetto stated there was a sign installed at the tennis courts at Schuyler, and he asked that they add the word "additional" above "Tennis Courts" since the sign says "Tennis Courts" and it points away from the Schuyler courts. He stated it is supposed to be pointing to the courts at Revere Road in case the Schuyler courts are full.

TABLE CONSIDERATION OF DEVELOPMENT AGREEMENT WITH TOLL PA XV, L.P. FOR REGENCY AT YARDLEY, SOUTH PARCEL, PHASE III (CARRIAGE HOMES)

Mr. Truelove stated this Agreement was prepared by Mr. Garton, and Mr. Fedorchak and Mr. Majewski have reviewed it and believe that all is in order.

Ms. Tyler asked that Mr. Truelove advise Mr. Garton that this matter is being Tabled.

APPROVAL OF EXTENSION REQUEST FOR DOGWOOD DRIVE

Ms. Reiss moved, Mr. Benedetto seconded and it was unanimously carried to accept the Grant of an Extension for Dogwood Drive to September 30, 2017.

UPDATE ON SNIPES

Mr. Eisold stated he met with Mr. Fedorchak and Mr. Majewski to go over the schedule for the Snipes project a copy of which was provided to the Board of Supervisors. He stated they did contact the traffic engineer, TPD, regarding the off site road improvements; and while he understands that they were to be included with the initial Bid, there are some PennDOT Permits required for that which have

not been secured at this point. He stated he feels they will receive them sometime in September or October; and it was felt that either that work would be included with the 2018 Road Project or Bid out as a separate project in the spring. He stated since the Permits are not in hand, they cannot include them with the schedule they are putting out for the Snipes Tract.

Mr. Benedetto stated usually in the summer there is one Supervisors' meeting in July and one in August. Mr. Eisold stated they were not sure which meeting would be canceled. Mr. Lewis asked if they could do the Bid award on July 19 since they should have all the information by July 14. Mr. Eisold stated they also have to consider the Responsible Contractor's requirements. Ms. Tyler suggested that they not make a decision yet for the August meeting until they get closer and have more information. Ms. Tyler stated they will cancel the first meeting in July. Mr. Fedorchak stated he feels they will probably be able to award the Bid on July 19 and could make it contingent that the process regarding public notification is satisfied.

SUPERVISORS REPORTS

Mr. Benedetto stated the Planning Commission will be considering the Comprehensive Master Plan Update at a future meeting.

Ms. Tyler stated there will be a meeting with PECO tomorrow regarding a number of issues with regard to electric reliability, and she will report on this after that meeting occurs. Ms. Tyler stated the Historic Commission assisted the Lower Makefield Historical Society with a Five Mile Woods presentation. She stated a book has been written about the Five Mile Woods, and it will soon be on sale. Ms. Tyler stated it underscored the importance of procuring the Hildebrand property and the Guzikowski farm.

Mr. Fedorchak stated last Friday the County Commissioners approved the Open Space Grant for the Hildebrand property, so they can proceed with the purchase of the property.

Mr. Truelove stated he just learned that Lynn Bush is retiring from the Bucks County Planning Commission this Friday. Ms. Tyler stated she has been very helpful to Lower Makefield over the years, and she will be missed.

Ms. Reiss stated the Farmland Preservation Corporation is working on getting some tree issues taken care of as well as issues with bamboo. Ms. Reiss stated Special Events will be working on Community Pride Day, and she asked those involved with a community group to contact Ms. Liney if they wish to participate.

Mr. Lewis stated the Economic Development Commission is completing the annual survey which is being refined to gain new insights, and this will run in the summer with findings in the third quarter of the year.

APPROVAL OF RESOLUTION NO. 2441 REAFFIRMING AND RATIFYING APPROVAL OF FINAL RECORD PLANS OF BIBLE FELLOWSHIP EVANGELICAL FREE CHURCH

Mr. Truelove stated it was determined that the mylars for this project and the next project on the Agenda had not been Recorded, and under the MPC they should be done within ninety days of the approval. He stated they are recommending that for the mylars which have already been signed, the signatures be ratified with the Resolutions, and they will make sure that they are filed.

Mr. Lewis moved and Ms. Reiss seconded to approve Resolution No. 2441. Motion carried with Mr. Benedetto abstained.

APPROVAL OF RESOLUTION NO. 2442 REAFFIRMING AND RATIFYING APPROVAL OF FINAL RECORD PLANS OF ST. IGNATIUS ANTIOCH CHURCH

Ms. Reiss moved and Mr. Benedetto seconded to approve Resolution No. 2442.

Mr. Lewis stated he understands that St. Ignatius no longer owns this tract, and Mr. Truelove agreed but they are using the St. Ignatius name.

Motion carried unanimously.

APPOINTMENTS

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to reappoint Marilyn Huret to Emergency Management.

There being no further business, Ms. Reiss moved, Mr. Benedetto seconded and it was unanimously carried to adjourn the meeting at 9:55 p.m.

Respectfully Submitted,

John B. Lewis, Secretary

