

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JULY 19, 2017

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on July 19, 2017. Ms. Tyler called the meeting to order at 7:30 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

PUBLIC COMMENT

Mr. Richard Adams, 221 Taylorsville Road, asked when the missing speed limit sign for Taylorsville Road, northbound direction 200' past the Yardley Borough line will be re-installed. Chief Coluzzi stated they sent out the Traffic Safety Officer to look at this, and he understands Mr. Adams has also been in touch with Mr. Hucklebridge, the Public Works Director. Chief Coluzzi stated they will petition for this with PennDOT after they look into this further to determine if it is needed adding there is no guarantee that it will be replaced. Mr. Adams stated he provided information to the Township which he received from the State Representative, and Chief Coluzzi stated they have received this and reviewed the requirements for signs; and if it meets the requirements, the Police Department will petition PennDOT who would be the ones to approve this as it is a State road. Mr. Adams stated there is also a problem at the Maplevale south exit onto Taylorsville Road where there is a sight distance problem and speeding. He asked that the illuminated speed sign be installed in this area. Chief Coluzzi stated those signs are rotated throughout the Township at various problem areas. Mr. Adams asked that they include in next year's Budget the newest technology to record speeds which could be used by the Police Department against aggressive driving. Chief Coluzzi stated the Supervisors did approve this in last year's Budget, and they do have a device that measures the volume of the traffic, speed of traffic, and the size of the vehicles coming through; and they may ask for another one this year. Mr. Adams commented on the increase

in children and foot traffic in the Taylorsville Road area. He stated they should consider getting a group together to discuss the possibility of making all Residential streets in the Township twenty-five miles per hour. Chief Coluzzi stated he doubts PennDOT would permit this on major State roadways in the Township. Mr. Lewis stated the State Representative currently has a Petition for weight restrictions on Main Street from Taylorsville and River Road from Lower Makefield and Yardley, and he may want to sign that Petition. Mr. Adams stated there should also be signs installed on Taylorsville Road indicating that there are children in the area. Mr. Adams asked if he needs to file a Right-To-Know request to get a copy of the Code for the speed limits on State roads in the Township, and Mr. Lewis stated he can find this information on the PennDOT Website adding that Lower Makefield is Region 6.

Mr. Adams stated he read the October, 2012 study of the Public Works operation; and he asked if a computerized planning program for the Public Works Department has been selected. Ms. Tyler stated there is a program, and Mr. Adams could speak to Mr. Hucklebridge about this.

Mr. Jeff Hirko, 1450 Dolington Road, asked about the Conservation Easement on the Oxford Valley property. Mr. Truelove stated Ms. Bush has retired from the County, and they need to find out who is the person they should now work with on this. Mr. Hirko asked the status of the Satterthwaite property, and Mr. Truelove stated the Supreme Court has not yet decided whether they are going to grant the Petition for Appeal.

Mr. Benedetto asked that they schedule Mr. Hirko to be interviewed on August 16 for the HARB vacancy, and Ms. Tyler stated they will consider this based on the number of people already on the list for that date.

Ms. Kathy Hirko thanked Mr. Majewski for meeting with herself and two other residents at the Snipes property on July 4 to discuss the natural trail they hope to incorporate into the Plan. Ms. Hirko also commented on the Night of Healing which was held on July 16, and she thanked the Police Department and all the Townships that worked hard on this event.

#### APPROVAL OF MINUTES OF JUNE 21, 2017

Mr. Benedetto moved, Ms. Reiss seconded and it was unanimously carried to approve the Minutes of June 21, 2017 as written.

#### APPROVAL OF JULY 3, 2017 AND JULY 17, 2017 WARRANT LISTS AND JUNE, 2017 PAYROLL

Ms. Reiss moved, Mr. Fritchey seconded and it was unanimously carried to approve the July 3, 2017 and July 17, 2017 Warrant Lists and June, 2017 Payroll as attached to the Minutes.

#### UPDATE ON SNIPES ATHLETIC FIELDS PROJECT

Mr. Eisold stated the Bidding process is moving forward, and there was a pre-Bid meeting on June 26 with twelve contractors in attendance. He stated there were some issues with regard to Pennsylvania American Water requirements that caused them to slightly delay the Bid opening.

Ms. Reiss asked if they have put the naturalized trail on the Plan, and Mr. Eisold stated it has not been officially shown on the Plan at this point although they all agree that it is going to be included. He stated they are working on finalizing the location and the type of trail.

Mr. Eisold stated the majority of the Permits are in place, and TPD is working with PennDOT to get the HOP for the entrance drive and the off-site improvements. He stated they are also getting ready to dig the well and determine the pump sizes, and they are also working with Musco to finalize the details of the site lighting.

Mr. Benedetto asked if the contractor who worked on the Caiola field was one of the twelve contractors who were in attendance at the pre-Bid meeting. Mr. Eisold stated while there were twelve contractors present at the pre-Bid meeting, there were actually ninety-four entities who reviewed the specifications on-line; and he does not recall if that contractor was one of those. Mr. Benedetto asked if the Bids will be opened on July 27, and Mr. Eisold stated he feels that is the date they will be opened as a result of his discussions with Mr. Truelove and Mr. Fedorchak. Mr. Benedetto asked about the issue of closing the culvert which was a concern of Mr. Faust. Mr. Eisold stated he had a lengthy discussion with Mr. Faust to review this, and he understands his concern. Mr. Eisold stated they cannot divert the water to another watershed and impact someone else, but they are looking into this further. Mr. Benedetto asked how many days after the Bids are opened must the Bid be awarded, and it was noted it is sixty days after the Bid is opened.

Mr. Lewis stated they have been moving trees on the property and dug holes so that there is now standing water. Mr. Eisold stated they dug the trench which filled up was water as there was rain after that time. He stated the landscape architect from his office has been out on the site monitoring the situation. He stated they did

not put the trees into the trenches because they were too wet. He stated Park & Rec has also set up a watering system to be used if needed. He stated they are doing whatever they can to make sure the trees are viable.

Ms. Tyler asked the Fausts and other adjoining landowners to contact the Township if they see anything unusual on their property.

Ms. Hirko asked if the trees are sitting temporarily in the trenches. Mr. Eisold stated they are above grade, they have been mulched in, and there is a sprinkler line underground. He stated they are protected, and they will be transplanted once the project starts and the berm is graded and constructed along Dolington Road which is where the trees will be placed as part of the buffer. Ms. Hirko asked why this was done in the middle of July which is not a good time. Mr. Eisold stated they wanted to move ahead selecting the ones they wanted adding that the Golf Course also had an interest in some of those trees. Ms. Hirko stated the trenches have been full of water since the day they were dug; and even with a week of no rain, the trenches have been full of water which is worrisome. Ms. Hirko stated there is also one tree dead already, and Ms. Tyler asked Mr. Eisold to address this with the arborist.

#### SIGNAGE AT VETERANS SQUARE

Ms. Tyler stated as neither Ms. Kathy Kraeck nor Mr. Kevin Treiber were present, the matter will be Tabled. Ms. Reiss asked if this should be considered by HARB, and Mr. Fedorchak was asked to look into this. Ms. Tyler stated that if they need to go to HARB they should go to HARB first before this comes back before the Board of Supervisors.

#### 2016 YEAR END FINANCIAL REPORT

Ms. Anne Gladwell, Finance Director, was present and stated the Board of Supervisors received information on the 2016 Year End Financial Report as well as a copy of the power point presentation. Ms. Gladwell stated 2016 was a successful year for Lower Makefield Township, and the General Fund surplus was approximately \$1.3 million more than anticipated, and she stated the General Fund balance at December 31, 2016 was \$2,652,625.

Mr. Benedetto asked that this information be made available on the Township Website, and Ms. Gladwell agreed to do so.

Ms. Gladwell showed the General Fund Revenue comparison between 2015 and 2016 for the largest Revenue sources adding that total Revenues in 2016 were higher than 2015 by slightly more than \$200,000. She stated that Real Estate taxes are the primary source of Revenue. Ms. Gladwell showed a chart of the Real Estate transfer taxes, adding between 2015 and 2016 it has been fairly stable. Mr. Benedetto asked the amount Budgeted for the 2016 Real Estate Transfer Tax, and it was noted it was \$1,150,000.

Ms. Gladwell showed a comparison of Expenditures showing that Expenditures in 2016 were slightly higher than 2015 for General Fund Expenditures. She noted specifically Central Government which was higher mostly due to Audit fees, consulting fees, engineering fees, and legal fees adding that the more projects there are, the more expense they will incur in this category. Ms. Gladwell also showed the Revenue and Expense Analysis.

Ms. Gladwell stated open space is a priority in Lower Makefield, and in 2016 several parcels were designated as open space; and they also set aside a \$250,000 Tree Bank Fund of which \$50,000 has been spent. Mr. Benedetto asked if that money was from the Delaware River Joint Toll Bridge Commission, and Ms. Gladwell agreed. Ms. Tyler thanked the EAC for negotiating this for the Township.

Ms. Gladwell showed the Fund Balance comparison from 2015 to 2016, and the total Fund Balances have increased significantly. She stated there were some deficits in 2016 mostly in Park & Rec which did a lot of work last year with all the projects going on.

Mr. Fedorchak stated he hopes to get the Auditor to come to a September meeting to provide the formal Financial Report for 2016. He stated Ms. Gladwell will present a mid-year 2017 Report at the August meeting.

Mr. Benedetto noted the Sewer Fund Balance which has gone down significantly, and he asked if they are looking at an increase in the sewer rate for next year. Mr. Fedorchak stated it was discussed last year during the Budget discussions that they would have to look at a Sewer rental increase for 2018, and they will discuss this further when they discuss the 2018 Budget in late October.

Mr. Benedetto stated there was a tax increase and the Township borrowed \$15 million half for the Sewer Fund, \$4 million for open space, and the rest for other items. He asked Mr. Fedorchak to discuss why there was a tax increase and to discuss what is being spent for road resurfacing. Mr. Fedorchak stated with regard to the \$15 million Bond Issue, he had indicated that in order to cover that additional expense for annual debt service he had projected they would need to increase taxes

by at least 1 mill. He stated when they worked further on the numbers during the Budget process, he was comfortable with recommending to the Board that they could go with a .8 mill tax increase. Mr. Fedorchak stated there was also the Park & Rec Fund, and there was a long discussion about Park & Rec expenses; and it was presented to the Board that there were a number of projects including the Community Center, the Dog Park, and Snipes which would increase the Park & Rec expenses overall. He stated they went with a .8 mill increase in the Park & Rec fund. Mr. Fedorchak stated they also increased the General Fund by .75 mills to cover overall expenses throughout all Departments. He stated the General Fund covers a wide range of Government functions including Police, Finance, Public Works, and Planning and Zoning. He stated these were the three elements that resulted in the 2.35 tax mill increase.

Mr. Benedetto stated they are also spending approximately \$1.5 million on the Road Resurfacing Project. Mr. Fedorchak stated approximately \$800,000 of that will come out of Liquid Fuels Grant money, and most of the remainder will come out of the Bond and some from the General Fund surplus. Mr. Benedetto stated he believes that the \$1.5 million being spent this year is the most money they have spent on the Road Resurfacing Program, and Mr. Fedorchak agreed. Mr. Fedorchak stated many years ago the most they spent was \$250,000 a year for the Road Program; and they started to increase it each year within the last five years.

Mr. Joe Menard, 917 Putnam Drive, stated with regard to Park & Rec expenses, he feels it would be helpful to separate the Operating Expenses from the monies for the Capital Projects.

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and items of litigation involving several Land Development items were discussed as well as the Airport litigation. He stated informational items were also discussed as well as Real Estate items involving several Zoning Hearing Board approvals.

#### DISCUSSION AND CONTINUATION OF PRELIMINARY MAJOR SUBDIVISION PLAN FOR DOGWOOD DRIVE (AKA HARMONY LANE)

Mr. Edward Murphy, attorney, was present with Mr. Ron Monkres, engineer. Mr. Murphy stated the first Plan for this project was introduced in May, 2006; and most recently the Planning Commission did recommend a Preliminary Plan Approval for the proposed five-lot Subdivision. He stated the property is slightly less than fifteen acres in the R-2 Zoning District bounded on the north by Dogwood Drive, on the east by Delaware Rim, and to the West by Sunny Knolls. Mr. Murphy stated the five lots range in size from 6/10ths of an acre to 1.6 acres; and as part of

the fifteen acres, there is approximately nine acres of open space. Mr. Murphy stated the tract is largely wooded, and is bisected in the rear by a tributary of Dyers Creek.

Mr. Murphy stated the Plan contemplates an extension of both the public water and public sewer systems in the immediate area. He stated the five lots would be served by a grinder pump that would connect to a force main that would pump back up to the existing terminus of the sewer system. Mr. Murphy stated over the years there has been discussion with the abutting property owners about providing access to the public water and sewer systems, and the Plan today contemplates providing lateral stubs to seven existing homeowners on Dogwood and two on Delaware Rim. He stated if homeowners desire to connect they could, and he does not believe that the Township's policy is to require connections.

Mr. Murphy stated at the Planning Commission meeting they spent a fair amount of time discussing the tree issue. He stated the Township Ordinance limits tree disturbance to 30%, and 70% of the trees have to be protected; and they are protecting 70% of the trees. Mr. Murphy stated the problem comes when you apply the Township's Tree Replacement Ordinance, and this would require a Tree Replacement Fee of slightly less than \$380,000 for the five lots. Mr. Murphy stated of the trees that would be removed, 19% of them are ash trees; and because of the EAB disease, those trees would have been lost anyway. Mr. Murphy stated if the Township gave them credit for those ash trees, the cost of the replacement under the Ordinance would be reduced from \$380,000 to \$318,000 which he feels is still a very high number. Mr. Murphy stated the Planning Commission recommendation did not address that issue, and the issue of the application of the Tree Replacement Ordinance for this particular Subdivision was deferred to the Board of Supervisors.

Mr. Murphy stated there were also questions raised at the Planning Commission meeting about whether or not any of the existing wells would be impacted by this proposal; and he had indicated that since they are extending the public sewer and public water systems, there would not be any impact on existing aquifers. He stated he also feels the stormwater issues have been managed. Mr. Murphy stated he believes that this may be the only Subdivision that is fully incorporating the Ordinance regarding green roadways as they are incorporating those design standards that the Board adopted a number of years ago. He stated they have stormwater systems under the roads, swales, and other items that the Township encourages to minimize excessive impervious surface.

Mr. Murphy noted Mr. Eisold's July 6 review letter; and he stated that other than a handful of Waivers that deal directly with the design of the roadway due to the fact that the green Ordinance for roadways is not entirely synced up with some of the SALDO provisions, he does not feel there are other issues that need to be discussed.

Mr. Eisold stated they have gone through the major issues, and the one item Mr. Murphy touched on briefly which is unusual is the stormwater basin is underneath the proposed road. He stated this creates a coordination issue. He stated the basin will be maintained by the Homeowners Association; and if the road is to be a dedicated road that would go to the Township, they will need to review this further to determine how this will work. Mr. Truelove stated he has not discussed this yet with Mr. Eisold; however, he feels there could be dedicated funds at a minimum. He stated this is Preliminary approval, so they can discuss this further between now and Final approval. Mr. Eisold stated he agrees that there would have to be some exchange of funds to protect the Township if there is an issue underneath the road. He stated some of the stormwater requirements are based on the new Ordinances that have been adopted since this project was originally developed. He stated these requirements were added to deal with the NPDES requirements and the water quality issues. Mr. Murphy stated he feels they can coordinate this in some fashion between now and Final.

Ms. Reiss stated she is concerned with Homeowners Associations that have only one objective which in this case would be a roadway as she has seen Homeowners Associations start and are then gone. Ms. Reiss stated her development had a Homeowners Association forty-years ago, and they no longer have one. She also noted Yardley Hunt had a Homeowners Association that was supposed to pay and maintain the tennis courts. Ms. Tyler stated they will work on this; and she stated they could escrow money up front and the Escrow Agreement would have to provide for additional payments into that escrow as years go by.

Ms. Reiss stated she understands that the Tree Ordinance is a burden; however, the Board's responsibility is to keep life easy for the people that live here. She stated they are talking about a lot of trees, and the water they were using will have to go somewhere. She feels this may also be a concern of some of the surrounding residents. She stated she feels this is the cost of doing business. Mr. Murphy stated he feels it is inconceivable that paying a \$380,000 fee for five lots is the cost of doing business. Ms. Reiss stated this is a heavily-wooded area. She stated she agrees that small trees should not be counted like larger trees, and also understands that they should not include the ash trees since most of them in this area are diseased; and she feels they could work with the Applicant although they cannot make it "go away."

Mr. Lewis stated if this same development were one mile north in Upper Makefield, it would fall under the 85%; and the Tree Ordinance is equally as protective as Lower Makefield. Mr. Lewis stated he does not see room to negotiate that out, and he feels compliance with Township Ordinances is "part of the deal." Mr. Lewis stated he understands one Supervisor is interested in changing this particular Ordinance which is something the Board can discuss; but in lieu of that, he would

not be amenable. Mr. Lewis stated he does appreciate the uniqueness of this development, and he has great respect for the engineering; and he has been told good things about the actual developer, and that the homes will be of very high quality. He stated he does not feel the cost given the size and the scope of the homes would be prohibitive.

Mr. Benedetto stated the residents received notice about tonight's meeting on July 15 which he does not feel is sufficient notice, and he does not feel this matter should have been on the Agenda for this evening. He stated he feels the Township should provide greater notice. Mr. Truelove stated there was an Extension through September 3.

Mr. Benedetto stated with regard to Dedication, he does not understand why this entire area has not been Dedicated; and he feels it may be due to Delaware Rim not being wide enough to handle emergency vehicles and snow plows. He stated residents from Delaware Rim and Dogwood Drive have been discussing this for a number of years. Mr. Benedetto stated he feels they should look into getting this Dedicated. He stated Dogwood Drive is also in poor condition, and he does not feel it has ever been repaved.

Mr. Benedetto stated at the end of Dogwood Drive, there is a black circle which could create an issue for existing property owners if something is to be built there; and he asked what that is. Mr. Monkres showed this on the Plan; and he stated it is a drafting error; and there is nothing being built there. Ms. Carolyn Fogel, 12 Dogwood Drive was shown this area on the Plan.

Mr. Benedetto stated a resident at 38 Delaware Rim also asked about the Chanticleer sewer and water hook up, and he wanted to verify for her that the lines would be made available to her property for the hook ups. Mr. Monkres stated there are two lateral extensions on Delaware Rim to the right-of-way, and that property is one of the two.

Mr. Benedetto stated he feels this is a property that the Township should buy as open space, and he feels it would cost over \$1 million. He stated an overwhelming number of residents indicated in 2008 that the Township should be preserving open space. He stated if they were to eliminate the ash trees and have the offset which is proposed by the EAC and they left the 70% woodlands protection, they would still have to pay over \$300,000 to the Tree Bank. He stated he feels the Tree Bank Ordinance is unreasonable, and they should make the changes that have been proposed by the EAC. He stated this fourteen acre site is proposed to have nine acres remain as open space. He stated they are proposing five lots; and while originally it was ten lots, he feels that five lots is still too many. He stated despite

the fact that he feels the Tree Bank Ordinance needs to be revised, it is in place to protect the people in the surrounding neighborhoods and to protect the environment. He stated he would like to see the Plans revised with fewer lots.

Ms. Tyler asked Mr. Murphy to review the Waivers being requested. Mr. Murphy stated they are listed in Mr. Eisold's July 6 review letter. He stated the first Waiver deals with not requiring pavement core samples from the existing abutting roadways. He stated the next is a reduction of the cartway width as recommended by the Township's Green Road Ordinance from 36' to 26'. He stated the next is eliminating the requirement that curbs be installed along the side of the street; and in lieu of curbs, they are doing what the Green Ordinance asks for which is eliminating curbs and installing roadside swales. He stated the last Waiver request is that they are not proposing any sidewalks along the interior street.

Mr. Truelove stated the Board could vote to deny the Plan this evening or with the agreement of the Counsel and his client continue the matter to another date within the Extension period of time and have further discussions. He stated if another Plan is to be submitted, they could work out a different Extension of time. Mr. Murphy stated he is assuming from the discussions by the Board that they should at least extend the review to another date before October 1; and they will go back and discuss what they have discussed this evening, and he will report back to Mr. Truelove to see if there is something they can do.

Ms. Chrystal Molnar, 38 Delaware Rim Drive, thanked the Board for the verification of the sewer and water proposed plans. Ms. Molnar stated in the northern end of the Township, there are six projects going on currently that are in close proximity to each other; and she reviewed those projects as well as the trees being removed as part of those projects. She stated all those projects are within two miles or less of each other so in the northern end of the Township, they are seeing a lot of trees removed. She stated she does not feel they can look at each project individually.

Mr. Alan Dresser, 105 East Ferry Road, stated he is a member of the Environmental Advisory Council. He stated it was mentioned that there would be an 8.9 acre common space set aside, and he asked that the developer consider either Dedicating that to the Township as open space or allowing the Township to put a Conservation Easement on it similar to what was done at Moon Nurseries. Mr. Benedetto stated he asked that question when they were at the Planning Commission, and the Applicant was in agreement with that. Mr. Dresser stated he feels the Tree Replacement Ordinance was designed to discourage developments in this kind of location; and if they want to proceed, they should pay the price which he feels is entirely appropriate as it is a heavily wooded lot, and 277 large trees will be coming down. He stated the trees are community assets which improve the air quality,

reduce stormwater run off significantly, enhance the beauty of the Township, and reduce noise. He noted other areas of the Township where trees have been taken down, and the result is that the noise levels are noticeably higher than previously.

Mr. Chris Guerrera, 27 Delaware Rim Drive, stated he lives at the corner of Delaware Rim and Dogwood Drive. He commented on the significant amount of wildlife in the wooded area currently. He stated there may also be wetlands in the area. He stated he is opposed to the proposed disturbance particularly as it relates to the corner where he helps to keep the drain clear.

Mr. Joe Menard asked if he had owned the fifteen acre tract before a developer got involved would he have been allowed to cut his trees down. Mr. Truelove stated possibly. He stated there could be a Fifth Amendment issue involved, and he would not want anyone to commit to anything before having further review and discussion of that issue. Mr. Murphy stated he always believed that a private property owner could remove trees on his/her own property if the property was not subject to the Development Application. Mr. Menard stated he agrees that the surrounding areas need to be protected, but he feels that a \$300,000 fine for trees for five houses is against people's personal rights. Mr. Benedetto stated he feels there is a balance in this instance, and he feels this is a regulatory taking. He stated he feels if they make some of the changes to the Tree Ordinance that have been discussed, it would still require paying a significant amount of money. Mr. Benedetto stated a developer does has the right to develop their land, and there could be a point where the developer could take the Township to Court saying this is a taking. Mr. Benedetto stated he does not feel the cost of doing business should be punitive. He stated he does feel that the developer should shrink the number of lots even more; however, he feels if the Township does not want the site developed, the Township should buy it.

Mr. Truelove stated they should try to get an agreement from Mr. Murphy to Continue the matter to another date, and Mr. Murphy stated he is agreeable to that. Mr. Murphy stated he and Mr. Truelove have had some discussions about the legality of the application of the Tree Ordinance to this particular site, and they can continue that conversation between now and when the matter is scheduled again. Ms. Tyler asked Mr. Truelove to share those memos with the Board, and Mr. Truelove agreed to do so.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated once a property owner states they want to develop a piece of property, the rules they have to follow are different.

Mr. Lewis stated while they can discuss the nominal value of the fee, the question is the negative externality of clear cutting a significant portion of forest within the Township. He stated removing these specific trees will have a negative impact in water absorption and will potentially cause additional run off for others in the community who will be harmed. He stated in this case, he appreciates that the fee is high; however, there are also a significant amount of trees involved. Mr. Murphy stated he might be more sympathetic to that position but for the fact that the Board legislatively determined that 30% tree disturbance was allowable; and their Plan does not disturb more trees than what the Ordinance allows. Mr. Murphy stated the problem with the Ordinance is when you calculate what the impact of the tree disturbance is, and this is where a balance needs to be struck as he does not feel it should be \$380,000 for five lots.

Mr. Benedetto stated he feels that this is a balancing act. He stated possibly the Township could purchase the property or the developer could come back with a Plan with fewer lots. He stated while the Tree Ordinance could be changed, the developer would still have to pay a Fee for tree replacement. Mr. Lewis stated the Ordinances at the time of Application would be the ones that would be applied in this case so that even if relief were granted to the Ordinance, it would not impact this particular Application. Mr. Murphy agreed, and he added it would be the Board's prerogative. Mr. Benedetto stated the Applicant could pull the Application and submit a new Plan.

Mr. Scott Machlovitz, 7 Delaware Rim Drive, stated Mr. Murphy had indicated that the tie ins to the water and sewer would not effect the wells in the area; however, he feels taking a treed lot and covering it with asphalt will require a certain amount of time to re-charge. He stated if his well is effected because the ground cannot re-charge, he feels this means the wells will be effected. Mr. Eisold stated typically with regard to wells, if you are withdrawing a lot more water from the ground, that is the primary reason there would be an impact to the wells. He stated he agrees that some of the water will run off; however, the actual impervious surface is not that significant over the fifteen acres. Mr. Machlovitz stated the Plan shows the stormwater management system running underneath the road and the pipes going to the 30" main have the potential for a lot of water to be carried away.

Mr. Monkres stated the Stormwater Management Plan proposed is fully compliant with the Ordinance as well as the NPDES regulations. He stated they are reducing the amount of stormwater run off generated in the post development in terms of volume as well as the rate of run off. Ms. Tyler stated Mr. Machlovitz is asking if the re-direction is going to cause his well to go dry; and Mr. Machlovitz stated it will not because the water is being infiltrated back into the ground on the site within the limit of disturbance. Mr. Murphy stated less water is going to run off after development. Mr. Monkres stated they have already received their Permit from the

State for their Stormwater Management Plan. Ms. Tyler stated he has indicated that the water will stay on site, and it will permeate into the ground and keep the aquifer filled. Mr. Eisold stated the basin under the road is doing this. Mr. Machlovitz stated he understood that basin was tied into a storm drain which runs to an area they are uncertain of. Mr. Monkres stated the storm drain that exists on Dogwood Drive is an existing pipe, and they are not effecting that in any way. He stated the Stormwater Management Plan includes collection of run off that currently goes down the far west end of Dogwood Drive, and they are intercepting about half of that total length of Dogwood Drive into the proposed system to the rain garden at the corner of the proposed intersection, and filtering it, and it then goes into the underground green system under the street.

Mr. Machlovitz read #17 in the letter dated July 6 from the Township engineer regarding the existing 18" RCP storm pipe including the fact that the Applicant was to locate the end of the pipe and revise the Plans to show the pipe to be extended along Dogwood Drive to an acceptable outlet. Mr. Machlovitz stated he did not see this on the Plans dated May 19. Mr. Murphy stated as he indicated at the Planning Commission this is a condition that has existed for a long time. He had a discussion with Mr. Majewski a week ago who asked if they could work cooperatively so that when the developer is there doing work, they could dig up where they think the end of the pipe may be; and Mr. Murphy indicated that they would be willing to work with the Township to identify the day lighting of the pipe. Mr. Murphy stated the pipe is existing now, and it is not part of the proposed development's stormwater design.

Mr. Machlovitz stated he especially appreciates Mr. Benedetto's comment about the idea of revising the Plan, and he would be in favor of building three lots and preserving the rest of the land.

Mr. Benedetto asked Mr. Machlovitz if he received notice of the July 10 Planning Commission meeting, and Mr. Machlovitz stated he did receive notice for that meeting as well as this evening's meeting. He stated he received notice for this evening's meeting this past week although it was not a lot of time to get the neighbors together. He stated he would appreciate more notice the next time this comes before the Township. One woman stated for the Planning Commission meeting, she received notice four days before that meeting. One gentleman stated his notice for the Planning Commission meeting held July 10 was dated July 3, and he received it on July 5; and for this evening's meeting, the notice was dated July 14, and he received it July 16.

Mr. Murphy stated they would agree to come back to the Board of Supervisors meeting on August 16 which provides everyone notice this evening.

Mr. Fritchey moved, Ms. Reiss seconded and it was unanimously carried to Continue the matter to August 16 with the agreement of the Applicant's counsel.

#### DISCUSSION OF PROPOSED CHANGES TO THE TREE REPLACEMENT ORDINANCE

Mr. Benedetto stated he and Mr. Dresser discussed making some changes to the Tree Replacement Ordinance to allow for offsets for trees that are required by other Ordinances as well as for the ash trees. Mr. Benedetto stated the EAC reviewed this and have proposed changes; however he stated the one with regard to the woodlands protection going from 70% to 80% he would not be in favor of as he feels this would result in more Waivers being requested. Mr. Benedetto stated the reason they wanted to make these changes was because they did not want to be granting Waivers, and he feels the current Ordinance as written has been shown to be unworkable and unreasonable; and he feels they could be looking at a potential legal challenge if they do not make some changes.

Ms. Tyler stated she has some concerns about enforcement beyond what Mr. Benedetto just outlined, and she would like an opinion from the solicitor as to the validity and enforceability of the Tree Replacement Ordinance. Mr. Truelove stated he hopes to have something on this prior to September 16 given the previous discussion. Mr. Benedetto agreed they should take a comprehensive look at this, and he stated once the changes are in place they should stop granting Waivers. Ms. Tyler stated they need to make sure it is a good enforceable Ordinance.

Mr. Lewis stated he is open to the discussion, and he feels they should provide those interested in this Ordinance with a draft of what the Ordinance changes would be. He stated he has never voted to waive the Tree Replacement Ordinance. Ms. Tyler stated it is about enforceability. Mr. Lewis stated he agrees that it should be enforceable, and he is open to changes.

Mr. Fritchey stated he does not feel they should have Ordinances they cannot enforce or continue to give Waivers to. He stated under the current Ordinance they allow for replacement trees with a thin diameter which frequently do not survive, and he feels this should be modified so that they establish a preference for trees with a more substantial diameter that will survive. He stated he would prefer to get a smaller number of trees he is satisfied will not have to be replaced within a one-year warranty period.

Ms. Reiss stated previously much of the development was done on farmland which was relatively clear, and now they are hitting the woodlands areas. She stated she would like to increase the woodlands protection. She stated she agrees they need to adjust the caliber of trees. She stated she is also in favor of the offsets particularly

when they are installing street trees. Ms. Reiss stated there is also the need to make adjustments on other Township Ordinances besides the Tree Ordinance so that they do not have to grant so many Waivers.

Mr. Benedetto stated he also feels they need to look at the Zoning Hearing Board fees and review what other Townships are charging. He stated there are also items where he does not feel Zoning relief should have to be granted for Variances that are constantly requested, and he understands Mr. Majewski has been looking into this. Mr. Benedetto asked Mr. Majewski and the Planning Commission to review this and have this put on the Board's Agenda in September or October so that they can review this. Ms. Tyler stated Mr. Majewski is already working on this.

Mr. Zachary Rubin, 1661 Covington Road, stated wetlands are natural resources which are protected by Federal law. He stated trees are also natural resources, and he feels trees should be protected by laws.

Mr. Jeff Hirko stated he understands taking out the ash trees from the Tree Bank Ordinance, and he added that there is also now a beetle which is attacking hickory trees; and he asked if they will take those out too. Ms. Tyler stated that may turn into a case-by-case basis; and that is where the Board needs the flexibility to say that in a specific case it does not make sense to require a replacement tree for a tree that they will be required to take out. Mr. Fritchey stated that is a good reason to be generic and to allow the Board flexibility.

Mr. Alan Dresser asked if they will consider all three of the EAC's recommendations, and Mr. Benedetto agreed they will. Mr. Dresser stated he looked at seven large projects from the last few years, and they would have 54% fewer replacement trees required to be planted if they count parking lot trees and street trees as replacement trees. He stated this is a benefit to the developers so he feels it is also reasonable to increase the woodlands protection from 70% to 75% or 80% to protect the woodlands we have that are rapidly diminishing. He stated this would also reduce the number of replacement trees required since there would be fewer trees coming down. Mr. Dresser stated with regard to the Dogwood Drive project, if they had an 80% protection ratio requirement rather than being able to build on three and a half acres, they could only have built on two and half acres which would have reduced the number of trees being taken down; and it would have been a more compact, cluster development which planners feels is a good idea. Mr. Benedetto stated he may ask that these recommendations be separately voted on.

## DISCUSSION OF BAMBOO ORDINANCE

Mr. Jim Majewski stated this year they have been working with several residents on trying to mitigate the problem with running bamboo which spreads to adjoining properties. He stated they have had five complaints which have come in, and he has been working to resolve them. He stated during the course of this, they have discovered some flaws in the Ordinance that need to be addressed. He stated there are also issues that homeowners need to be educated about. He stated in one part of the Ordinance it states that bamboo must be controlled to be on the property line of the bamboo grower, and in another part of the Ordinance it states that it must be removed to be 10' away from the property line. Mr. Majewski stated today they entered into a Settlement Agreement with one of the property owners over how they are going to do that language to control it, and they did cut it back 10' from the property line. Mr. Majewski stated they have also been called out to several properties where people are concerned about bamboo from their neighbor's property; however, when they went out and met with the property owners, they did not know where their property line was. He stated it is difficult to enforce an Ordinance that requires that bamboo be on your property line or 10' away from the property line if the property line is not able to be determined in the field.

Mr. Majewski stated most people have been cooperative with the Township, and there have been several instances where they have cut back the bamboo, and they are working on installing the barriers that are required by the Ordinance.

Mr. Benedetto stated he feels the Township should be proactively sending out letters to people they know have bamboo growing on their property advising them of the Ordinance and that they must maintain the bamboo that is on their property. Ms. Tyler asked how the Township would identify them, and Mr. Benedetto stated the Township has been advised about specific properties by the residents who have bamboo encroaching onto their property. Ms. Tyler stated she feels they could put something about this in the next Township Newsletter. Mr. Benedetto stated if the Township receives a complaint from a resident about bamboo coming onto their property, the Township should have a letter that is sent out to the homeowner with the bamboo including the Ordinance indicating that they need to be in compliance with the Ordinance. Mr. Majewski stated currently they go out and investigate complaints and then send a letter if there is a violation, although he does not see the harm in notifying the homeowner that there is the potential for the bamboo to spread based on a complaint. He also agreed it would be a good idea to put this in the next Township Newsletter and/or put it on the Township Website since the more people are aware of it, the more likely they are to comply. Ms. Tyler stated they may also decide not to plant bamboo on their property.

Ms. Reiss stated Farmland Preservation has some issues with bamboo coming onto their property, and she has referred them to Mr. Majewski. Ms. Reiss stated she believes letters were sent out. Mr. Majewski stated one of the problems they have had is that there is the issue in the Ordinance whether it is to the property line or ten feet away; and he has had a few residents who were notified by Farmland Preservation, and they pointed out the ambiguity in the Ordinance. Ms. Reiss stated they need to remove that ambiguity so that it is clear.

Mr. Ross Bruch, 597 Leslie Lane, stated he is a member of the Farmland Preservation Corporation; and they have been trying to work with the homeowners. He stated they have notified the homeowners they have identified, but he feels it would also be helpful if a letter went out from the Township as well.

Mr. Majewski stated they know that if people just cut bamboo and put it in a pile somewhere, it will take root and start growing again; and the Ordinance calls for incineration of the bamboo. He stated an issue they have is that there is also a Township Ordinance that prohibits open burning.

Ms. Tyler stated she feels there are a lot of issues with this Ordinance, and she was against the Ordinance when it was passed as she does not feel it is a place where the Township belongs and that there are private rights of action that cover this. She stated Mr. Majewski has identified a number of issues, and she asked if he has recommendations for solutions. Mr. Majewski stated he has discussed with Mr. Dresser whether it should be 10' or on the property line, and they feel 10' is what they should have. He stated they can then set the barrier closer to the property line and determine what that exact distance should be.

Mr. Fritchey asked if there is a working committee discussing this, and Mr. Majewski stated he has been working with Ms. Kirk and the Township's Code Enforcement Officer on how to enforce this. He stated he does not feel it is necessary to have a Committee, and they could come up with recommendations which would be circulated to those involved to make sure everyone agrees. Mr. Fritchey stated he assumes the Board will receive a draft of the recommended amendments to the Bamboo Ordinance.

Ms. Tyler asked that they also present any other items they have discussed in the past with regard to Ordinances that need to be revised. Mr. Majewski stated he does have a list of items that need to be looked at and how they can prevent people from needing to go to the Zoning Hearing Board when the Variances are routinely granted. He stated he feels they should re-write the Ordinances to allow what they are already allowing through the Variance procedure which will reduce the residents from having to pay the \$500 fee which does not usually cover the cost of the Application adding most other Townships charge between \$750 up to \$1,500 for

a Residential Application. He stated they can do that along with Subdivision and Land Development revisions for Waivers that are routinely granted because the Ordinance is out of date.

Mr. Fritchey stated he feels the work Mr. Majewski is doing is commendable and publicly useful. Ms. Tyler stated she would like them to do it all as much as possible for publishing purposes; however, Mr. Fritchey stated while he agrees, he does not feel they should delay certain items because there are so many that they cannot get them all done at the same time. Ms. Tyler agreed, and she stated they will leave this to Mr. Majewski and Mr. Fedorchak's judgment. Ms. Tyler stated they are trying to ease the process for the residents for "run-of-the mill" home improvements they would like to make. Mr. Benedetto stated they also want to look into the Fees as well. Ms. Tyler thanked Mr. Majewski for the work he is doing adding he has a depth of knowledge of the Township.

Mr. Fedorchak asked Mr. Majewski if they could discuss this again at the September 6 meeting, and Mr. Majewski stated he could have a draft ready probably in the next week to be circulated.

Ms. Phyllis Maguire, 1100 Buckingham Way, stated with regard to incineration, that only applies to the rhizomes. She stated with regard to filing a complaint she would like there to be a system in place for talking back and forth with those involved at the Township. She stated she felt there would feedback coming back to her on what the settlement proposals were; and when she did see one settlement proposal, she sent back several recommendations. Ms. Tyler stated when the Township receives a complaint and the Township is moving against the homeowner involved, the resident making the complaint would not have a benefit from that such as receiving damages for her property; and she would have to go for a private right of action in Court. Ms. Maguire stated she was just trying to find out what the settlement was, and Ms. Tyler agreed that she should be made aware of it; however, Mr. Majewski stated he was told that was confidential. Ms. Maguire stated she does have a lawsuit, and she was told by the person representing the Township that she could not discuss it with her because she had a lawsuit; however, Ms. Maguire stated she does not feel the complaint has anything to do with the lawsuit, and she was not trying to get the Township to help litigate the lawsuit. She stated she was just trying to get information about her complaint and where it was at in terms of the settlement proposal, and she was told that it was confidential.

Mr. Benedetto stated they would need to get a legal opinion on this. He stated because of the severity of Ms. Maguire's situation, he agrees communication is key; and even though she would not be involved in the settlement negotiation, once it is final and a settlement is in place he feels she should be notified unless there is a legal reason from a confidentiality standpoint. Mr. Truelove stated he will have to

speak to Ms. Kirk about this as he was not aware of all the specifics. He stated when this Ordinance was first drafted, there were several Municipal Ordinances they reviewed for guidance; however, very few of the solicitors he discussed this with had a lot of enforcement activity so Lower Makefield is out in front of a lot of Municipalities. He stated they will follow through and try to improve on the communication understanding the balance between enforcement and seeking Civil damages.

Mr. Faust asked if the Ordinance prohibits the planting of bamboo, and it was noted that it permits planting contained bamboo. Mr. Faust stated he understands that the bamboo that causes problems is the kind that “shoots out rhizomes,” and they could have an Ordinance that prohibits that type of bamboo. Mr. Truelove read from the Sections regarding planting bamboo. Mr. Majewski stated the Ordinance does specify that running bamboo is prohibited from being planted.

#### QUIET ZONE UPDATE

Mr. Eisold stated July 8 was the establishment of the Quiet Zone, and he has noticed that for the most part it seems to be in effect at this point. Ms. Tyler stated it has largely been quiet; but the residents need to understand that if the engineers perceive anything near the crossing, they are going to sound the horn. She stated she has received good feedback from those who live near the crossings.

Ms. Tyler stated the question that will continue to arise is how they will monitor compliance. Mr. Eisold stated the Township received a letter which outlined those specific issues, and Ms. Tyler stated it would be good to put that on line so the residents would be aware of this. Mr. Eisold stated he and Mr. Fedorchak did discuss having a point person and a process in place and Chief Coluzzi is working on this. Chief Coluzzi stated they will devise a Complaint Form for the residents which will be printed out and put on line. He stated they will compile any complaints to see where the problems are that need to be addressed. Ms. Tyler asked if they should include on the Complaint Form excessive times when the gates are down as she hears from residents that this is getting worse. Chief Coluzzi stated he does not feel that should go on this Complaint Form since when there are complaints for the gates being down, the Police are sent out immediately to that location; and most of the time there are legitimate reasons for the gates to be down, and they are functioning properly 99% of the time.

Ms. Reiss stated it was noted on Facebook that the gate on Stony Hill was broken. Ms. Tyler stated she understands it was fixed within about twenty minutes. Chief Coluzzi stated it was struck by a truck, and the driver did contact the Township. He stated the railroad has a quick response for that.

Mr. Tim Collins, 479 Jenny Drive, thanked everyone for the efforts taken to get this done. He stated he feels they are approximately 98% compliant. He stated he is not sure a Complaint Form would be appropriate and he feels they should just contact SEPTA and CSX if there is an issue since once there is a Complaint Form, people may get “pushy.” Ms. Tyler stated a Complaint Form would allow them to track compliance over a period of time and determine whether there is a pattern. She stated if they have an issue, they then have information of times there is a problem. Mr. Collins stated he would be willing to write down times and dates when there are issues.

#### DOG PARK UPDATE

Mr. Eisold stated they are in the Responsible Contractor’s Ordinance period at this point, and they have had some discussions with the apparent low Bidder working out some details. He stated estimated construction time was mid-August. He stated they do need to consider if it were to be awarded, it would be the August 2 meeting, and Ms. Tyler stated they will discuss later this evening whether or not they are going to cancel the August 2 meeting. Ms. Tyler stated if they need to hold a brief Special Meeting to award this, Mr. Fedorchak should advise the Board if there is an issue by canceling the August 2 meeting.

#### MEMORIAL PARK EXPANSION PROJECT UPDATE

Mr. Eisold stated this is moving ahead and hopefully the weather will continue to cooperate. He stated while it does look “disturbed” there now, they are moving ahead. He reviewed the work that will be done over the next few weeks. Mr. Eisold stated they had a 2’ layer of unsuitable material that was found in the basin area, and they did have to remove that and there is a borrow pit to the right where there was additional excavation so that they could exchange some of the material. He stated this 2’ layer was clay and holding water, and they have exchanged a lot of that out; and the berm has been built with the proper material. He stated the area to the right will be fully graded and seeded to look like the rest of the field. Mr. Eisold stated there were some minor additional costs for this, and they are working out the details so that the net change will be minimal.

Ms. Tyler asked that they be kept advised of the progress of since thousands of people are expected to be there around September 11; and if there is going to be an issue with parking, they need to know this ahead of time so they can have plan in place. Mr. Eisold stated they did meet with Mr. Copson from Park & Rec as to where to bring the people off the new parking onto the fields in the back as they will not be able to park on the west side of the Park where they now have the arboretum.

Mr. Eisold stated Harris will be doing the wearing course over the remainder of the paving in the Park as part of the road paving project. He stated they will keep the new section as base at this point, and pave it next year so that it has time to settle. He stated if they get the Grant for additional work, there will be a lot of work back in that area anyway, and they would not want to damage the final paving.

#### DISCUSSION OF COMMUNITY CENTER PROGRESS

Mr. Fedorchak stated the architect has reported that the Community Center will be substantially complete by mid-September, and has given a completion date of October 1. Mr. Fedorchak stated he feels the Board can start to consider when they want to have an opening ceremony in early October. He stated they should also start looking into purchasing furniture, and he did reach out to the Seniors this morning and asked that they start thinking about their needs. He stated he hopes to discuss this further with the Seniors in the next few weeks once the rooms are framed out. He stated they also need to consider what they want to do in terms of programming for each of the rooms.

Ms. Tyler stated she did offer access to some of the Seniors so that they can get in there and consider placement of furniture. She stated they need to work in tandem with the Seniors.

Ms. Reiss stated she had a request from two different user groups who would like to rent space, and they need to consider fees for different events/meetings.

Mr. Benedetto stated he would like to know what other Municipalities do with regard to groups using their facilities including outside groups and those who are from the Township. He stated he does not feel they should charge a User Fee to the Seniors to meet there although he may be in the minority with this position.

Ms. Tyler asked if they should be charging User Fees to the athletic organizations to use Township facilities, and Mr. Benedetto stated he feels there is a difference. He stated he would like to know what other Townships do. He stated this is the Township Community Center, and they do not charge the Seniors a fee to use the existing Municipal Building.

Ms. Tyler stated she feels they should have a generic name for the Community Center such as LMT Community Center. Mr. Benedetto stated with regard to the name for the Community Center, he feels it should be named after Frank Fazzalore as he feels he has done a lot of work for the Township and was the biggest proponent of building the Community Center. He stated other things have been named after residents and Supervisors, and he does not feel there is anyone who has done more for the community than Frank Fazzalore.

Mr. Lewis stated with regard to the Fees he views them as offsets to cover the cost to manage the Community Center, and he would be in favor of reasonable fees. Mr. Fritchey stated this was discussed at the Park & Rec Board with the Seniors, and Mr. Dave Gordon explained the policy about User Fees and having time provided exclusively by paying a User Fee; and he feels the Seniors accepted the fact that there would be a fee provided it was not onerous.

Mr. Lewis stated with regard to naming the Community Center, while he thinks very highly of Mr. Fazzalore, he feels they should view this as an opportunity to explore a naming opportunity where there is revenue associated with it in the same way they are seeking out sponsors for the Dog Park. Mr. Lewis stated there may be a local brand that may want to invest in the branding opportunity. He stated the Community Center could have a generic name for a specified time period while they seek a branding partner such as Wawa, etc. Ms. Tyler disagreed. Ms. Reiss stated there was a contest to name Macclesfield and a child in the fourth or fifth grade won the contest as he found out that Makefield came from Macclesfield. Ms. Tyler stated they can consider this further. Mr. Benedetto stated he would be in favor of naming it after someone such as Frank Fazzalore, but he would not be in favor of it being named after a brand although they could name rooms for businesses that those businesses could sponsor. Ms. Reiss stated if they are considering the longevity of Supervisors Ms. Grace Godshalk served for over thirty-five years. Ms. Tyler stated the Community Center was a long-standing process and many different people had a significant impact, and she specifically noted Ms. Ada Derr. Mr. Fritchey stated that Mr. Wes Hackman actually came up with the idea to begin with and did as much as anyone with regard to the Community Center.

#### UPDATE ON BRRAM LITIGATION

Mr. Truelove stated there was a Brief filed by BRRAM's counsel, Mr. Potter, a few weeks ago; and because of that the Township's counsel was able to file an Amicus Brief. Mr. Truelove stated currently Allegiant and the FAA have received an extension because the FAA's counsel had a family issue. Mr. Truelove stated he believes those Briefs are due around August 6, and it is possible there might be reply Briefs. He stated at some point after that the Court will determine whether oral argument is necessary or requested although generally it is rare for that to occur. Mr. Truelove stated at some point after that the Court will issue a decision. Mr. Truelove stated the Township's counsel has been involved in some of the preliminary stages of Public Comments over the expansion discussion in New Jersey. He stated she has also advised as to some of the political aspects which the Township's Task Force has also been helpful with as well as with other issues.

Mr. Benedetto stated they discussed in Executive Session that there would be a teleconference between Mr. Truelove, Ms. Lichman, and Mr. Potter. Mr. Truelove stated he will try to get this scheduled for next week or the week after that at the latest. Mr. Truelove stated both Mr. Potter and Ms. Lichman have been very cooperative in terms of discussing these issues.

Ms. Joanne Guiniven, 986 Cultipacker Road, stated Ms. Lichman has helped them drive the strategy and is working with Mr. Potter, and guiding them on the political contacts; and the Task Force is very active on that front. She stated their most recent conversation was with U.S. Representative Coleman's Office who is the Ewing area U. S. Representative. Ms. Guiniven stated they are working with Ewing people as well so that there is a united front. Ms. Guiniven stated they previously discussed with the Board of Supervisors vetting Mr. George Williams, and Mr. Truelove has had that initial conversation. Ms. Guiniven stated Ms. Lichman could hire him for the Township. She stated Mr. Williams could help them understand what the FAA will fight against and what they will agree to so that as they define their strategy, they know they will be more effective.

Ms. Tyler asked why Ms. Lichman would not be able to provide that service, and Ms. Guiniven stated she does this normally through Mr. Williams as he is her expert. Ms. Guiniven stated Ms. Lichman would want the Board's approval before she would hire him. Ms. Tyler stated since they are not at the point where they need expert testimony, she would want to know why they would need his services. Mr. Truelove stated he could have a separate discussion about this with Ms. Lichman, and he can then advise the Board if she feels there is value in that. Mr. Truelove stated Ms. Lichman did mention his name early on when she was retained. Ms. Guiniven stated Ms. Lichman has already advised them of several issues they should not push for, but indicated that Mr. Williams would be helpful as he was an FAA executive. Ms. Tyler thanked the Task Force for their help with this issue.

Ms. Sue Herman stated she feels Mr. Williams could help with political strategizing for the Task Force; however, those on the Task Force stated he would not. Mr. Truelove stated it would be more of the regulatory aspect dealing with the FAA. Ms. Herman stated she still feels he would be a positive influence and asked that the Board consider this.

#### DISCUSSION AND APPROVAL OF WAIVER REQUEST FROM LAND DEVELOPMENT BY EDGE AT YARDLEY

Mr. Truelove stated the Applicants are from the Cornerstone Development, Landcore Engineering Consultants. Mr. Truelove stated Edge of Yardley is the company that manages the Cornerstone property on Township Line Road. He stated

the property was originally developed in 1996 and included a community building and some other amenities. He stated they are proposing some changes in the amenities; and as part of that they are requesting a Waiver of Land Development, and there are provisions in the MPC that allow for that. Mr. Truelove stated he and Mr. Majewski discussed this and would recommend the Waiver of Land Development.

Mr. Ryan Whitman, Project Manager for Landcore Engineering, stated he is present on behalf of the Galman Group who is the Applicant/owner. He stated also present is Mr. Sal Valanti from the Galman Group and the project architect, Brian Delso, from the Omnia group. Mr. Whitman showed an aerial photo delineating the tract boundaries and identifying the location of the existing amenities and the scope of the project location. He showed the location of the existing clubhouse, pool, tennis court, and play area. Mr. Whitman stated they propose to replace the existing active recreational uses with what is shown on the Plan. He showed an aerial photo of the proposed rendered version of the proposed improvements superimposed on top. He stated a small building addition is proposed in order to optimize the interior space of the existing clubhouse and give a more modern interior look. He stated the pool will remain the same, but there will be an extension of the pool deck in order to provide several sitting areas, a fire pit, patio, gazebo and some other recreational uses such as bocce and shuffleboard.

Mr. Whitman stated they propose a net increase in impervious coverage of 50 square feet. He stated the Plan that was provided to the Township initially showed a net decrease of 400 square feet; however, that calculation was done based on an older Survey Plan, and they have revised the numbers to show that it will be a net increase of 50 square feet. He stated they will have some underground stormwater management to manage the increase in stormwater.

Mr. Whitman showed the location of an existing sanitary sewer easement, and the bocce court is proposed within that easement; and there will be a storm pipe that will cross through the easement itself. Mr. Whitman stated he discussed this with Mr. Majewski who discussed it with the Sewer Authority which indicated they would be okay with this provided the owner is willing to provide a letter acknowledging that the easement exists and that any ongoing maintenance supersedes the improvements and would be replaced at the owners' expense and not the Township Sewer Authority, and the owner is willing to comply with this.

Ms. Tyler stated she understands that they are removing a tennis court, and she asked the feedback they received from their residents regarding this. Mr. Valanti stated there are two tennis courts; and he showed the one which will remain and noted the other one was hardly used. Ms. Tyler asked if their residents had to approve this, and Mr. Valanti stated they did not because they are tenants.

Mr. Truelove stated if there is a Waiver of Land Development approval, Stormwater and Grading Permit review and approval by the Township engineer will still be required for this work. He stated if the Board votes to approve a Waiver of Land Development, they would still be subject to satisfying all Permitting requirements and all other regulatory and oversight requirements of the Township. Mr. Eisold stated they will still do their engineering review as necessary.

Mr. Benedetto moved, Mr. Fritchey seconded and it was unanimously carried to grant the Waiver request for Land Development by Edge at Yardley subject to the Conditions discussed by Mr. Truelove.

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

There was no one present representing Toll Bros. Mr. Truelove stated his firm is not involved with Toll Bros. Ms. Tyler stated this matter will be Tabled.

Mr. Tim Collins stated with regard to Toll Bros. there is a huge Class Action lawsuit taking place in Buckingham as a result of damage/repair work; and the Real Estate agencies will not represent any of the homes for sale. He stated previously there was a representative before the Board from Regency at Yardley who indicated they are experiencing mold issues, and he does not feel they should support anything in that community until Toll Bros. indicates there is not a problem. Ms. Tyler stated while she agrees in principal, they have to look at each development separately; and they will rely on the Township solicitor as to how much leeway they have.

Mr. Majewski stated this Development Agreement was drafted by Begley Carlin & Mandio and has been reviewed by the Township and everything is acceptable. Mr. Truelove stated the Development Agreement does bind Toll Bros. to do certain things that they are obligated to do, so that the Township will still have substantial oversight.

Mr. Lewis stated there is no representative for Toll Bros. present this evening. Mr. Truelove stated he recognizes that, adding that his office is not involved with this as a number of years ago their Princeton Office did work for Toll Bros. so they considered that to be a conflict. Mr. Fedorchak stated they did not ask Toll to be present this evening, and it depends how complicated the issue is whether or not

they ask for representatives to attend the meeting when the Development Agreement is considered. Mr. Benedetto stated he would like to have Toll Bros. come in since there are outstanding complaints from a number of residents in the Toll Bros. community. He stated they should be asked to attend the Supervisors meeting in August so they can explain where they are with the outstanding complaints.

Ms. Tyler asked Mr. Truelove if they should consider adding to this Development Agreement certain paragraphs that would protect the ultimate homeowner. Mr. Truelove stated this could potentially be done, but this particular one would have to go back to Begley, Carlin.

Ms. Reiss discussed the number of problems the Buckingham homeowners are having.

Ms. Tyler suggested that they consider for this Development Agreement and any other Development Agreement that they consider Warranty language extending the Warranties. Ms. Tyler recommended that the matter remain Tabled until they have further information.

Mr. Zachary Rubin stated the correct Motion would be to postpone to either a definite or indefinite time. Mr. Rubin stated Phase III includes the five acres of open space that is to be Deeded to the Township which will have a pavilion on it. He asked if there will be consideration in the 2018 Budget for developing that parcel as they may need to install a road to the parcel, a water fountain, restroom, parking, etc. Mr. Fedorchak stated he has had a number of discussions with Mr. Gary Cruzan who expressed an interest in having input into the design of the five acres, and everyone felt that would be an appropriate starting point to consider how this tract might be developed. Mr. Fedorchak stated he met with Mr. Cruzan and representatives of Toll Bros., and they had a productive meeting with discussion as to parking, buffering, and a walking trail to be included on the tract. He stated Toll Bros. has since provided them with a Sketch Plan and certain cost estimates; and at this point he would like to discuss this with Mr. Cruzan to discuss the details, and if his reaction is favorable, Mr. Fedorchak would bring this before the Board of Supervisors to discuss further.

Ms. Tyler asked if those items would properly belong in the Development Agreement that is on the Agenda this evening. Mr. Fedorchak stated the requirement was that the five acres be Dedicated with the pavilion, but there were then other considerations; and Mr. Cruzan asked to be able to have input, and this is where they are now. He stated he would like to get that concluded so he can bring it before the Board to be discussed publicly.

Mr. Rubin stated all it states is that they will cede five acres to the Township with a pavilion. Mr. Eisold stated he feels that the pavilion and the five acres was tied to a certain number of units being occupied and was not tied to a specific Phase of the Development.

Ms. Reiss asked if it is going to be ceded to the Township, once the Township owns it do they still have to have Mr. Cruzan decide what they are going to do on it. She stated she feels it is useless to put a pavilion on the property given where it is located. Mr. Fedorchak stated if everyone is in agreement as to what will happen to the five acres, he does not feel there is a requirement for Mr. Cruzan's input. He stated there are multiple Parties to the Settlement Agreement, and contained within the Settlement Agreement are a number of Conditions and financial issues. Mr. Fedorchak stated he feels it would be good to have everyone cooperating and ultimately agreeing to what will happen with the five acres. He stated the bridge money is also sitting in a fund, and the original Agreement indicated that would go toward improvements of the I-95 overpass if certain milestones were met; however, if none of those milestones were resolved, the Township would have \$200,000 which they could use for open space, infrastructure improvements, etc.; but they need to have everyone involved in the Settlement Agreement to sign off on that.

Mr. Fritchey moved, Mr. Benedetto seconded and it was unanimously carried to postpone consideration of the Development Agreement indefinitely.

#### APPROVAL OF CERTIFICATE OF APPROPRIATENESS FOR DELORENZO'S SIGNS 1707 LANGHORNE-YARDLEY ROAD

Ms. Reiss stated HARB signed off on this. Mr. Benedetto moved and Mr. Fritchey seconded to approve the Certificate of Appropriateness.

Mr. Alan Dresser stated they owe seventy-eight, 1" caliper trees to the Township; and there was concern that these trees are small. Mr. Dresser stated they could provide a smaller number of trees if the trees were larger, and this was a Condition. Mr. Dresser stated the Board approved the Development Agreement on October 5; and at that meeting, Mr. Truelove stated a Section of the Agreement indicates that the Township Manager would provide the owner/developer with a list of Township planting locations and the number of required tree species to be planted within six months of the execution of the Agreement. Mr. Dresser stated that would be April 5 of this year, and he asked if that happened. Mr. Fedorchak stated it has not happened yet, and he is also not sure that the execution of the Agreement took place on that date; and he feels it took place some time after that date. He stated they will be working on this. He stated one area he was thinking of was the Golf Course since that is on the Master Plan, and Mr. Dresser agreed that would be a good location. Mr. Benedetto stated they could also be installed at Macclesfield or Memorial Park.

Mr. Lewis asked if the developer has paid all of their Fees in full; and Mr. Fedorchak stated the staff is going through a number of Development Agreements, and they are preparing a list of all the outstanding items.

Motion carried unanimously.

#### ZONING HEARING BOARD

With regard to the Aurliz, LLC Variance request for the property located at 1690 Big Oak Road in order to permit construction of a building resulting in less than required setback from the abandoned right-of-way of Old Oxford Valley Road, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Douglas Sce Variance request for the property located at 701 West Melissa Circle in order to permit construction of a fence within the buffer easement, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Mr. & Mrs. Picker Variance request for the property located at 535 Countess Drive in order to permit construction of an addition resulting in greater than permitted impervious surface and encroachment into the rear yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Joanna Cronquist and Patrick Boyce Variance request for the property located at 1281 University Drive in order to permit contraction of a fence in the front yard which exceeds the permitted height, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Lower Makefield Investor LLC Variance request for the property located at 770, 780, 790, and 800 Township Line Road in order to permit construction of one free-standing monument sign to be located in the ultimate right-of-way, illuminated, and in excess of the number of signs permitted, the solicitor was directed to participate but not oppose.

#### SUPERVISORS REPORTS

Ms. Tyler stated the Electric Reliability Committee met recently and they have been discussing the updates from PECO on their infrastructure improvements, communication improvements, and to address some of Mr. Adams' specific concerns. She thanked Mr. John Kingham, the Chairman of that Committee, who went out to Mr. Adams' property and explained to him some of the infrastructure issues Mr. Adams was concerned with.

Mr. Benedetto asked for an update on changing the name of the Disabled Persons Advisory Board, and Ms. Tyler stated they have not come back to the Board.

Mr. Fritchey stated Park & Rec Board will hold their Annual Road Tour on August 1 in the evening beginning at 6:00 p.m.

Ms. Reiss stated the Citizens Budget Commission has been renamed Citizens Financial Advisory Commission. She asked Mr. Fedorchak if he has received any resumes as they are re-forming, and he stated he did not believe so. Ms. Reiss stated she has received e-mails, and she has advised them to send in their resumes. Ms. Reiss stated she will call a meeting of Special Events for a day when Ms. Liney is present so she can work with them on Community Pride Day and to start planning the opening of the Community Center.

Ms. Tyler stated she received a request from Lisa Gage whether they want to consider another video of Community Pride Day. Ms. Reiss suggested that they have just one video which includes both Community Pride Day and the opening of the Community Center. Mr. Benedetto stated he would limit it to the openings of the Dog Park and the Community Center. Ms. Tyler stated she will give Ms. Gage guidance that they will do the Community Center opening and new Park openings.

Mr. Lewis stated the Economic Development Commission met last week, and they are finalizing the annual economic survey that they do of Township businesses. He stated the Environmental Advisory Council met last week, and they heard from the Morrisville Municipal Authority who presented the two options they have for the Plant. He stated they also offered to take them on a tour of the existing Plant, and he feels some of the EAC members will do this. Mr. Lewis stated the Golf Committee met on Monday and reviewed the financials for the Golf Course for the first six months of this year. He stated they also discussed Course maintenance and upkeep.

Mr. Benedetto congratulated the Electronic Media Advisory Board on the work done on the Township Website that looks “fantastic,” and he also thanked the LMT staff. Mr. Benedetto also thanked Supervisor Lewis who was also involved in this as well for many months making sure this project got completed. Mr. Benedetto stated he would like to see the Comprehensive Master Plan put on an upcoming Planning Commission Agenda. Mr. Benedetto stated he was contacted by Mr. Bob Dwyer who would like come in with a different Plan for Capstone Terrace, and they had asked him to wait until the Comprehensive Master Plan was adopted. Mr. Benedetto stated the next meeting of the Trenton Mercer Airport Review Panel will be July 27, and they are doing an outstanding job reaching out to community members, people in New Jersey, and making inroads politically.

Ms. Tyler thanked all the volunteers serving on the various Boards and Commissions.

Mr. Adrian Costello stated with regard to the Financial Advisory Committee at a previous meeting he was asked to send an e-mail to all the old members of the Citizens Budget Commission; and three of them indicated that they submitted their paperwork, and are waiting for a call from the Township. Ms. Tyler stated they will be scheduling interviews.

#### AWARD FUEL BIDS FOR THE PERIOD AUGUST 1, 2017 TO JULY 31, 2018

Mr. Greg Hucklebridge stated they participate with the Bucks County Consortium to Bid out the fuel, and it is actually only the delivery costs that they control as opposed to the cost of the fuel. He reviewed his recommendations.

Mr. Fritchey moved, Ms. Reiss seconded and it was unanimously carried to approve the Fuel Bids as outlined by Mr. Hucklebridge.

#### APPROVAL OF RESOLUTION NO. 2341 ADOPTING SEWER PLANNING MODULES FOR MATRIX LOWER MAKEFIELD RESIDENTIAL L.P.

Mr. Fedorchak stated this Resolution will allow the Board to amend the official Sewer Plan to allow for the extension of the Matrix sewer which is for the sixty-two townhomes that were approved in December. He stated this will go to DEP for their final approval.

Mr. Fritchey moved, Mr. Benedetto seconded and it was unanimously carried to approve Resolution No. 2341 as described by Mr. Fedorchak.

#### APPROVAL OF RESOLUTION NO. 2342 AUTHORIZING MODIFICATION TO TRAFFIC SIGNAL LOCATED AT WASHINGTON CROSSING ROAD & STOOPVILLE ROAD

Mr. Fedorchak stated this traffic signal is located entirely within Lower Makefield Township and is owned and maintained by the Township. He stated this matter was driven by a development in Upper Makefield Township, the White tract; and as part of that process, there was a Traffic Impact Study that they performed, and the results of that were that there would be certain minor modifications required to this intersection and to the traffic signal as a result of the anticipated traffic flow. He stated this Permit includes those modifications. He stated one of them is to widen the shoulder on Stoopville, and a second is to add supplemental emergency

preemption detector for eastbound Stoopville Road. He stated there are also some minor pavement marking updates, and they will make minor signal timing changes as it relates to the movement, sequence, and timing changes. Mr. Fedorchak stated these modifications are the responsibility of Toll Bros., and they will be responsible for the construction.

Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously to approve Resolution No. 2342 as outlined by Mr. Fedorchak.

#### DISCUSSION OF PURCHASE OF A FIRE TRUCK

Mr. Lewis asked for an update on the purchase of a fire truck. Mr. Fedorchak stated the volunteer Fire Department made a presentation during the 2017 Budget, and they detailed the need for a new rescue vehicle. He stated they had indicated they anticipated the cost for the vehicle would be approximately \$772,000, and they would make the purchase through COSTARS. Mr. Fedorchak stated they also indicated that they could get an excellent price for the existing vehicle of approximately \$250,000 or more. He stated the net obligation to the Township would therefore be approximately \$500,000. Mr. Fedorchak stated they did include a place holder in the 2017 Budget for this item; however, the purchase will not be made until sometime in 2018.

Mr. Fedorchak stated if the Board is agreeable, they will proceed with the purchase of this vehicle as presented by the Fire Department; and when it is time to make the purchase, there are a number options as to how they would pay for it. He stated the first option would be the Bond Issue; and when they crafted the purposes for the Bond Issue, they included a number of items such as Municipal equipment purchases so all or some of that \$500,000 could be taken from the Bond Issue. Mr. Fedorchak stated there may also be other opportunities in terms of reserves in other funds or they could take out a short-term five to seven year Note and spread the payment of the \$500,000 over that period of time.

Ms. Tyler stated she feels the Board is unanimous in their unconditional support of the Fire Department, and they are grateful for the services they provide to all of the residents. She stated they did contemplate this purchase, and they appreciate the care they take of their trucks since they get such a large number on re-sale.

Mr. Fedorchak stated he has always been very impressed with not only how well the Fire Department takes care of their equipment, but also how well they plan for their Capital purchases as they lay them out over a ten-year period. He stated they have also done an extraordinary job purchasing a number of pieces of equipment and apparatus using the relief association monies. He stated the Township has participated in only approximately 25% of their purchases.

Mr. Benedetto stated he feels they should put on a future Agenda discussion of a tax break for fire fighters and EMTs as he understands that other Townships have considered this. Ms. Tyler stated she has already discussed this with Mr. Fedorchak and members of the Fire Department, and they are looking into this. Mr. Fedorchak stated they could consider this in September if the Fire Department is ready to discuss this.

#### UPDATE ON SANDY RUN CLOSURE

Mr. Benedetto asked when they will get an update on the Sandy Run closure, and Chief Coluzzi stated the last he heard from Ms. Kaminski was that she was still working on this following up with information needed from the Railroad.

#### DISCUSSION ON HIRING NEW TOWNSHIP MANAGER

Mr. Benedetto stated he feels they need to make it a priority to look for a new Township Manager as it is now July. He stated he would like to see an Ad placed at PSATS to get the process started, and to have the Supervisors review the Application. Ms. Tyler stated since this is a matter of employment, the Board needs to discuss this at their next Executive Session Agenda.

#### APPROVAL TO CANCEL THE AUGUST 2, 2017 BOARD OF SUPERVISORS MEETING

Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously carried to cancel the August 2, 2017 meeting.

#### AUTHORIZE STAFF TO GO OUT TO BID FOR HEACOCK FORCE MAIN REPLACEMENT

Mr. Fedorchak stated recently Mr. Ebert, the sanitary sewer engineer, explained that there was a failure of some sections of the pipe. Mr. Fedorchak stated Mr. Ebert has estimated the cost to be \$250,000.

Mr. Fritchey moved, Mr. Lewis seconded and it was unanimously carried to go out to Bid for the Heacock Force Main replacement.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Mr. Fritchey moved, Mr. Benedetto seconded and it was unanimously carried to appoint Mr. Rodger Owen to the Golf Committee.

Mr. Benedetto moved to re-appoint Alan Dresser to the EAC. He stated his term expired on April 5. Mr. Lewis seconded. Motion carried unanimously.

There being no further business, Mr. Lewis moved, Mr. Fritchey seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

John B. Lewis, Secretary