

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – FEBRUARY 7, 2018

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on February 7, 2018. Mr. Lewis called the meeting to order at 7:35 p.m.

Those present:

Board of Supervisors:                    John B. Lewis, Chairman  
                                                      Fredric K. Weiss, Vice Chair  
                                                      Kristin Tyler, Secretary  
                                                      Daniel Grenier, Treasurer  
                                                      Suzanne S. Blundi, Supervisor

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

SWEARING IN OF SUZANNE S. BLUNDI AS SUPERVISOR

The Honorable Gary B. Gilman was present and swore in Suzanne B. Blundi as Supervisor.

ROLL CALL

Mr. Lewis called the Roll.

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road, stated last month Mr. McIlhinney, the State Senator, announced his retirement, and Mr. Kupersmit announced that he will be running as an Independent for Mr. McIlhinney's seat. He explained the reasons why he is running for office.

Ms. Kathy Hirko, 1450 Dolington Road, stated she is present on behalf of Patterson Farm Preservation and announced that their first calendar fundraiser sales have produced \$1,327. She stated calendars are still available at the Township Building, McCaffrey's, and she has some as well for those wishing to purchase them.

Ms. Hirko stated they are working on their next fundraisers, and she thanked the residents for their support. She stated they are hoping to present a proposal to the Board of Supervisors and get started on restoring the Satterthwaite home.

Ms. Grace Godshalk, Countess Drive and Makefield Executive Quarters, stated she disagrees with a Sketch Plan that was submitted by Caddis Development for a property on Oxford Valley Road and Dobry Road. She stated the property is near Regency on one side and there are also homes across the street. She stated while it is Zoned C-1, it is basically Residential. Ms. Godshalk stated she was a Supervisor for thirty years; and during that time there was a Subdivision, and Lower Makefield condemned property on Oxford Valley Road and Dobry for the expansion of Oxford Valley Road. Ms. Godshalk stated when the Township condemned it, there was a piece left of approximately 300' long but not too deep. Ms. Godshalk stated during the Subdivision the Township attorney at the time and one Supervisor wanted to let what was left over after the development of the road widening go to the parcel behind; however, she wanted them to keep it since it was 300' along Oxford Valley Road. She stated now a Sketch Plan has been submitted where they have their main entrance crossing the Township property, and she does not know why the Township would entertain this and why they let it go to Zoning and Planning.

Mr. Truelove stated he does not believe the Supervisors have looked at this Plan. Ms. Godshalk asked why they would even have the Township look at it as she understands Ms. Kirk is investigating it. Mr. Truelove stated they cannot refuse a submission. Ms. Godshalk stated it is coming across Township property, and Mr. Truelove stated that would be one of the issues that would have to be determined. Ms. Godshalk stated that it not an issue, and it is illegal. Mr. Truelove stated he will look into this.

Mr. David White, Gayle Drive, stated he does not recall that anyone introduced the interim engineer at the last meeting, and he feels that should have been done. Mr. White stated when they had the Reorganization Meeting in January, there was some turmoil on the Board as to the new positions that they were filling; and at one point when they were discussing Remington Vernick, Ms. Tyler asked where was the proposal, and Mr. Lewis indicated they had it. Mr. White asked who has seen the proposal. Mr. White stated it was also stated at that meeting, that over the next several months, the Board was going to request proposals from the various firms, review the proposals, and hold interviews. Mr. White stated it has been a month since that meeting has taken place, and he asked Mr. Lewis where the process stands. Mr. Lewis stated they are in the process of negotiating the final Agreement with the engineering firm. He stated there is a draft of the Agreement, and he advised Mr. White that once it is executed or even before if he wishes to see the terms he could do so if he files a Right-to-Know Request. Mr. White asked if all Supervisors have seen it, and Ms. Tyler stated she has not. Mr. Lewis stated he has not seen the latest draft either.

Mr. White stated he feels it sounds unethical if there are proposals that the Supervisors are not aware of. Mr. Truelove stated his office worked on the final Agreement, which is probably in transit, and it should be ready to present to the Board sometime in the next several days; and they will have the opportunity to weigh in on the terms. He stated they did rely on some other professionals including Mr. Grenier who is an engineer to help provide some terms that would be helpful in the final Agreement.

Mr. Tim Collins, 479 Jenny Drive, stated at the January meeting, Mr. Lewis stated the Board was going to try to be open and transparent going forward as a Board; and he asked Mr. Lewis if that was correct, and Mr. Lewis agreed. Mr. Collins stated at that meeting it was very obvious that there were a number of votes taken but not all Supervisors were completely aware of the votes that were coming up. He stated Ms. Tyler was that particular Supervisor, and the votes were taken in a very expeditious manner. Mr. Collins stated at the meeting held January 17, Mr. White had stated that it was perceived that they were using somewhat “back-door politics;” and Mr. Collins stated he shares that opinion, and he feels others share that opinion as well.

Mr. Collins stated Mr. White had questions for Mr. Truelove; and for the first time that he can recall, he feels Mr. Truelove was a little hesitant in his response and was “guarded.” Mr. Collins stated that Mr. Truelove has always been very aware of the legal precedents that are set and aware of the rules the Township must follow. He asked Mr. Truelove if it is ethical practice for Supervisors not sworn into their positions as Board members to have discussions about items that are going to come up for discussion and approval at the first meeting in January. Mr. Truelove stated it is not a violation of the Ethics Act since they had not been sworn in. He stated those types of meetings, whether they occurred in this case or not, occur frequently in every Municipality and perhaps every School District in Pennsylvania.

Mr. Collins stated when they held the Interviews for Supervisor, one of the candidates openly answered that he was approached by a sitting Supervisor in advance of the Interviews. Mr. Collins asked Mr. Truelove if that is something that was ethical and were they aware of some of the questions that were going to be asked of that individual so that they could be prepared to have better answers. Mr. Truelove stated there is no legal ethical issue implicated, although it may be something that people are uncomfortable with. He stated ultimately the process was open, and the vote did occur publicly. He stated if there was any issue with that, it would have been “sanitized” by the process that evening.

Mr. Collins stated he had read articles a number of years ago in local newspapers, and it was apparent that other Township’s Board of Supervisors meetings were not “the friendliest ways” of performing service in their Township; and Lower Makefield

at that time was not suffering that problem. However, what he perceives now, is a change in that process; and he hopes going forward that the residents of Lower Makefield Township will see improved stewardship.

Mr. Zachary Rubin, 1661 Covington Road, stated he objects to the previous speaker's characterization of the procedure that they went through to appoint a new Supervisor. He stated he was at that meeting, and he watched it again on the Website. He stated what the previous speaker stated was incorrect, and there was one Supervisor who asked one potential applicant if that person was approached by a sitting Supervisor; and Mr. Rubin stated he knows as a fact that a number of people who interviewed for that job were "contacted by Supervisors" and those people were never asked the question.

Ms. Tyler advised Mr. Lewis she would like to "straighten out the Record," and three Supervisors had met with a potential applicant. Mr. Lewis advised Ms. Tyler she was not recognized; and if she has an issue where she cannot follow procedure, and they need a five-minute recess, that is fine. Ms. Tyler stated she was just rebutting what was said, adding "truth matters."

Mr. Anthony Mannarino, President of the Pennsbury High School Water Club, stated their mission is to raise awareness and to raise funds to save the lives of people around the world by providing access to clean water. He stated his organization has found that they can make the most measurable impact possible through Charity Water which implements solutions to the water crisis most commonly through deep water wells. He stated in September, 2016 the Water Club set a fundraising goal of \$10,000 by June, 2018; and to date they have raised \$7,300 and project they will exceed their \$10,000 goal. He invited everyone to their upcoming fundraising event which is the Pennsbury's Best Concert which will feature the most talented individuals and ensembles in the High School. It will be held on February 14 at 7:00 p.m. and tickets are \$10 to be sold at the door. Mr. Mannarino stated 100% of the proceeds will go to Charity Water. He stated more information about the Water Club is on Instagram and their Facebook page.

Mr. Lewis stated when people donate to Charity Water 100% of their money goes to the actual projects, and Charity Water finds separate contributors to pay for the administrative expenses. Mr. Lewis asked if there is a way people can purchase tickets before the event, and Mr. Mannarino stated they are only sold at the door. Mr. Lewis asked if people can make donations online if they are unable to attend the concert. Mr. Mannarino stated donations have to go into a School account, and checks can be written to PHSA with Water Club noted. He stated anyone wanting to make a donation can contact him as well.

APPROVAL OF MINUTES OF JANUARY 17, 2018

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the Minutes of January 17, 2018 as written.

RESOLVE TO CHANGE THE NAME OF THE DISABLED PERSONS ADVISORY BOARD TO DISABILITY ADVISORY BOARD

Ms. Lisa Huchler-Smith, Chair of the Disabled Persons Advisory Board, stated last fall she came before the Board of Supervisors to consider a name change as they felt the name Disabled Persons Advisory Board might not be the best way to present themselves. She stated after further consideration, they decided the name Disability Advisory Board would be best, and that their Mission Statement would speak for their group. She stated their Mission Statement would read: "The mission of the Lower Makefield Township Disability Advisory Board is to educate and advise the Township and broader community about issues effecting people with disabilities, promoting inclusion, safety, and equal access for everyone."

Ms. Tyler moved to change the name of the Disabled Persons Advisory Board to the Disability Advisory Board as outlined by Ms. Smith.

Mr. Truelove stated he believes that the Board was first established by Resolution, and he would suggested that the Motion be to resolve to change the name; and he will provide a Resolution for the Board to sign at a later date.

Ms. Tyler moved to resolve to change the name of the Disabled Persons Advisory Board to the Disability Advisory Board as outlined by Ms. Smith. Mr. Weiss seconded the Motion.

Mr. Lewis asked Ms. Smith when they will have their next Roll and Stroll Event, and Ms. Smith stated it will be September 29 with more information to follow. She stated they are hoping to get the Scouts involved this year.

Motion carried unanimously.

## PRESENTATION BY TOWNSHIP SEWER ENGINEER

### Overview of the Township Sewer System

Mr. Ebert stated since there are three new Supervisors he wanted to provide an overview of the means by which the Township provides public sewer service in Lower Makefield Township and show the different service areas. He stated he will then go into more detail on specific sewer issues.

Mr. Ebert stated there are two main service providers – Bucks Water & Sewer Authority and the Morrisville Municipal Authority. He showed a rendering of the Township and stated the areas in yellow flow directly to the Bucks Country Interceptor known as the Neshaminy Interceptor which conveys the flows to the Totem Road pump station for treatment by the City of Philadelphia and goes through the City of Philadelphia infrastructure. He stated he will discuss this further this evening as there are cost implications. Mr. Ebert stated the light blue area on the rendering also flows there and is known as the Middletown Township service area. He stated the purple area flows through Falls Township to the Neshaminy Interceptor. He stated the orange area is a service area within Lower Makefield that is serviced by Falls Township directly. Mr. Ebert stated the area in pink flows through Yardley Borough to the Morrisville Plant, and the green area all flows by gravity to Morrisville through pump stations.

### Discussion of Relationship with Bucks County Water & Sewer Authority and Approval of Revised Transmission Agreement

Mr. Ebert stated DEP is managing our connections because there is an overload in the Neshaminy Interceptor; and the EPA has stepped in and stated rather than just build a bigger pipe, they wanted them to have all the tributary Municipalities reduce their flows so that they are better utilizing the existing infrastructure and not just always building a bigger pipe as they go through. Mr. Ebert stated in order to DEP then entered into a Consent Order and Agreement with Bucks County Water and Sewer Authority to implement this. In order to do that, there are three steps. He stated DEP is managing our capacity, and we are not allowed to have additional connections or put additional flows in until we achieve three milestones.

Mr. Ebert stated the first milestone is that DEP needs to approve a Corrective Action Plan as to how we are going to manage and reduce our flows through the removal of I & I. He stated the Corrective Action Plan is one of the key basis of the Supplemental Agreement before the Board which is the Township's Agreement with Bucks County Water and Sewer Authority as to how we are going to comply so that they can release EDUs, and how they will maintain the limits. Mr. Ebert stated the

Supplemental Agreement is an amendment to an existing Agreement, and it takes the conditions that the City of Philadelphia has placed on Bucks County and transfers them to Lower Makefield. He stated this is part of the Consent Order and Agreement that Bucks County signed with DEP to allow these connections to go on so there was not a permanent moratorium on connections. Mr. Ebert stated this will be implemented through the Township's Act 537 Plan. He stated the first thing they needed was the approval of our Corrective Action Plan which we have obtained, and then the Corrective Action Plan is implemented in the Supplemental Agreement which is then memorialized in the Act 537 Plan.

Mr. Ebert stated he would like to provide an overview of the Corrective Action Plan since it the cornerstone of the Supplemental Agreement which he will ask the Board to consider taking action on tonight. He stated the Corrective Action Plan is a "living document" and provides flexibility for Lower Makefield Township to "control its destiny" in the Agreement. Mr. Ebert stated the goal is to reduce our flows through the removal of inflow and infiltration so that as they add new connections, the flows never really go up. He stated they broke it up into seven areas where they could meters flows, and he identified the flow meter locations. He stated they will meter and identify opportunities to remove I and I over a number of years in different areas. He stated this is part of their Operating Budget, and they estimated it at approximately \$50,000 per year. He stated provided Lower Makefield is doing this, DEP will not restrict our flows even if we are over our flow allocation. He stated this gives us eight years. He stated it is also a living document in that if we get one section done and realize after that we have to redo it or find additional areas, we are encouraged to do that. He stated Lower Makefield was one of the first to get their Corrective Action Plan approved by DEP.

Mr. Ebert stated the Supplemental Agreement is the next step that needs to be accomplished, and this will allow Lower Makefield to go on to the Act 537 Plan. Mr. Ebert stated in order to sign the Supplemental Agreement, you have to know what the Corrective Action Plan is. Mr. Ebert stated with regard to the Supplemental Agreement, there is a base agreement which was signed in 1975 with the Bucks County Water and Sewer Authority. He stated this Supplemental Agreement will update the terms and conditions of that Agreement to be consistent with the current Agreement with the City of Philadelphia and Bucks County Water & Sewer.

Mr. Ebert stated the Township could not have complied with the terms that were in the Supplemental Agreement six to eight months ago. He stated Northampton Bucks County and the Township of Falls Authority have since had negotiations with DEP and Bucks County, and Mr. Ebert stated he was part of the negotiations. He stated previously, if you went over your flow they could cut you off; however, now the way it is written is that so long as there is no moratorium on the entire system, and we

are in compliance with the milestones of our Corrective Action Plan as determined by DEP, not Bucks County, Lower Makefield will continue to get the additional connections that we request. He stated there is a Connection Management Plan that projects our connections out for five years.

Mr. Ebert stated the Agreement establishes a flow limit that we have to comply with. He showed a chart of actual flows in 2017, the annual average, the allowable peak hour flow, and the five-year running average. Mr. Ebert stated without the modifications they made in the Supplemental Agreement, Lower Makefield would not be eligible for any capacity in 2018. Mr. Ebert stated now, provided they comply with the Corrective Action Plan and there is not a Moratorium, Lower Makefield would get additional capacity. He stated they also included in the Agreement a discussion of Phase II so it is a living document; and if it does not meet the needs five to ten years in the future, the Agreement can be opened up. Mr. Ebert stated he also asked for miscellaneous EDUs for both Residential and non-Residential so that a small development would not have to go through the full planning process and wait two to three years to get their EDUs as a large development would. Mr. Ebert stated this Agreement also defines how fines are allocated; and if the City of Philadelphia fines Bucks County and we are over for the parameter that is in violation for the surcharge, all customers go into that. He stated there are three groups of customers that Bucks County Water and Sewer Authority has – the retail customers, wholesale customers like Lower Makefield, and bulk customers which is the PARX Casino, which was previously not part of the fine allocation. He stated the Agreement also makes sure that the total of the fines by all Parties cannot exceed what the City of Philadelphia does, and the previous calculation could have resulted in a much larger amount of money being allocated.

Mr. Ebert stated there is a “favored Nation clause;” and if anyone were to get a better term than Lower Makefield, it would apply to Lower Makefield as well. He stated they wanted Northampton go through and sign it, and then the Township of Falls. Mr. Ebert stated the final version received by Lower Makefield on January 5 included all of their terms. Mr. Ebert stated he sat in on all of the negotiations and they addressed a lot of the concerns that Lower Makefield had; and he is now in total support of this Agreement. He stated while this is a Contract, for a majority of the technical issues it allows DEP to be the determiner of the facts from flow data, etc. compared to Bucks County being the determiner; and he feels this “levels the playing field.”

Mr. Ebert stated the Sewer Department has been out installing flow meters and gathering data so we have a “jump start.” Mr. Ebert asked that the Board consider taking action on this if they are comfortable with the Agreement adding approving this will enable them to go to the 537 planning process which will implement this

Agreement. He stated he cannot write the 537 Plan until he knows what the Supplement Agreement says because he needs it documented that he has a Plan that implements that. He stated he cannot proceed to the 537 Plan until he knows what the Board of Supervisors is comfortable with as to the Supplemental Agreement.

Mr. Grenier asked if there are any risks associated with the Agreement. Mr. Ebert stated a previous revision had a peak minute flow limit, but now it is peak hourly. He stated if one of the peak hourly flows goes over, technically they have violated the Agreement; and there is no term in the Agreement that says how long before they are allowed back in. He stated everyone has stated that the past practice has been as long as there is no moratorium and there is no fine, there is no penalty. He stated he likes this because in Lower Makefield they are proactively going after this, but others might not be doing anything; and a moratorium could be put in place. Mr. Ebert stated he wants DEP to recognize those Townships that are doing a good job. Mr. Grenier asked what are the costs associated with implementing this as Mr. Ebert had stated it would be about \$50,000 to put in the flow meters. Mr. Ebert stated the flow meters are going in and it would just be staff time. He stated he estimated how much the Township should spend a year to be successful in removing I & I; and he compared it to a Township of similar size, and he came up with \$50,000. He stated he likes to do more permanent repairs installing liners as opposed to grouting which is a temporary repair that has been used in the past. Mr. Ebert stated they will meter and identify the area that has the most potential. He stated they will monitor it during rain events and also go out at night when there are high groundwater levels. He stated his goal is to use approximately \$45,000 of the \$50,000 in repair work and \$5,000 in televising.

Ms. Tyler asked the process when a moratorium may come into effect and its impact. Mr. Ebert stated if our flows are over, we would be eligible for a fine as that would mean that the program did not work, and we are not in compliance. He stated the goal is if everyone takes their existing flow and reduces it by 10%, there will never be a compliance issue or an overload of the Totem Road pump station. He stated the City of Philadelphia would have to purchase additional conveyance and treatment capacity at the Northeast Treatment Plant, and as a result of that there will be an additional increase in cost to the Township. He stated as long as Lower Makefield is in compliance, we would still get EDUs. He stated if there were a full moratorium, there would be no more development and no more connections until it is lifted. Ms. Tyler stated there are therefore two different levels of moratoriums – a moratorium on the entire system and all users and a moratorium over a particular user of the system, and Mr. Ebert agreed. He stated the goal is that the moratorium be placed on the individual entity early. He stated if there are habitual overflows on this interceptor, DEP has an obligation to protect the environment and shut down all the connections.

Mr. Ebert stated in order for Lower Makefield to remove their flows from the Bucks County Water & Sewer Authority as they previously did when they redirected the Heacock Road Force Main to Morrisville, they will have to pay all of the outstanding Bonds with Bucks County that they have taken out to pay for the capacity in the City of Philadelphia; and whatever Lower Makefield's proportionate share is of any of the outstanding Bonds for the Neshaminy Interceptor would have to be paid in order to pull all of our flows out. Ms. Tyler asked if that is standard or is this new in this Agreement. She also asked what that would cost Lower Makefield if they decided to do that. Mr. Ebert stated this has always been part of the Base Agreement although no one had applied it before; however, the current Bond Counsel for Bucks County is very concerned because of the number of Bonds they have. He stated that would protect Lower Makefield as well since Falls Township could pull all of their flows out; and if they did not pay their portion of the outstanding Bonds, all the remaining entities that were in there would have to subsidize that. Mr. Ebert stated he does not know Lower Makefield's current percentage of the Bonds; but he has asked that, and they will get back to him with the actual calculation.

Mr. Fedorchak stated currently we are in a moratorium, and there are a couple of projects in the southwest end of Lower Makefield that are being held up including Matrix. He stated one of the items that DEP is looking for from Lower Makefield is a new Agreement with Bucks County which is what Mr. Ebert is addressing here this evening. He stated DEP will not allow connections into the system until the Settlement Agreement is resolved as well as a few other items.

Ms. Tyler asked who drafted the Agreement they are considering this evening; and Mr. Ebert stated it was Bucks County Water and Sewer Authority, and it is on revision 18. Ms. Tyler asked if the Township attorneys have reviewed this. Mr. Truelove stated Ms. Kirk has been involved in this with Mr. Ebert as well as with Mr. Jeff Garton, attorney, for the Bucks County Water and Sewer Authority as well as counsels from other entities who have been looking at the various versions. Ms. Tyler asked Mr. Truelove if he would recommend approval of this tonight, and Mr. Truelove stated he does based upon what Mr. Ebert has supplied. Mr. Ebert stated Ms. Kirk has reviewed at least the last five versions.

Mr. Lewis stated if Lower Makefield decides to change our flows from Bucks County Water and Sewer Authority to another Authority, they need an estimate as to the "break-up" fee. He asked if there is a calculation of that; and Mr. Ebert stated he had requested that of Bucks County. Mr. Lewis stated he feels they need to know those numbers since they have not figured out what our sewer strategy is as there are a number of different options. He stated he is not "too comfortable" voting on something until he knows what the break-up fee would be. Mr. Ebert stated this is not a new condition in the Agreement, and it is a continuation of a term that is in the

base Agreement. He stated approving this Agreement tonight will not have an impact on that obligation although he understands they do want to know what that number would be. Mr. Lewis asked if they could negotiate better terms in terms of a break-up that they would only be responsible for “x percentage” of the bond; or if the total amount they are talking about is de minimus, it is not an issue.

Mr. Ebert stated he feels that would call for a legal opinion; however, he does not feel they would be allowed to do that because when they took the Bond out, they were required to pledge that service area, the revenues, and the customers. He stated he does not feel they would be allowed to sign an agreement that would be contrary to their Bond commitments. Mr. Truelove agreed adding he feels it could also cause some of the other contributing entities to take legal action since they would be detrimentally effected by that.

Mr. Grenier asked what is the overall timeframe to get through the Act 537 Plan. Mr. Ebert stated it is basically prepared, and the Executive Summary has been reviewed twice by the Sewer Authority. He stated it would then go out for review by the Board of Supervisors, the Lower Makefield Township Planning Commission, the Bucks County Planning Commission, and the Bucks County Health Department; and it could take sixty days for the outside agencies to review, and any comments would have to be addressed. He stated there would then be a minimum of a thirty-day public comment period. He stated since DEP has already reviewed this, they may be willing to run concurrent the public review comment with the outside agency review comment period. Mr. Ebert stated he feels there will be review comments by DEP since everyone else has gone at least three rounds before getting approval.

Mr. Ebert stated they are holding 2016 EDUs “hostage,” and Lower Makefield has requested 345 of those; and he does not feel they will be released until we have an administratively complete 537 Plan. Mr. Ebert stated because Lower Makefield has been proactive, DEP may consider the release of some of the EDUs upon the Board of Supervisors approving the Supplemental Agreement. He stated when Ms. Fields was at the DEP he asked her if she would support that, and he also asked Mr. Ben Jones if he would support that; and they were both willing to support that request. Mr. Truelove stated Ms. Fields was in a position at DEP previously when she was involved with this process, and Mr. Jones is the Executive Director of the Bucks County Water and Sewer Authority. Mr. Ebert stated Pat Patterson is now the Regional Director of DEP and Ms. Fields is at the EPA, and they have not replaced her position as Department Head for the Wastewater/Clean Water Division at DEP so there is a void there now and there has been since January.

Mr. Ebert stated with the Board of Supervisors’ permission and if they sign the Supplement Agreement, they will petition the DEP for release of EDUs so they can allow some developments to proceed since Lower Makefield has made progress and

has a good Corrective Action Plan that DEP believes in. Mr. Ebert stated the signing of the Supplemental Agreement is a major milestone. Mr. Ebert stated the Township has started the metering program, and even before the Corrective Action Plan was approved he had Mr. Watson and Mr. Hucklebridge install the meters so he has meaningful data to submit in the Chapter 94 Report which is due in March.

Mr. Grenier stated he read that several other Townships just had theirs approved in the last few weeks, and Mr. Ebert stated there are two that are there, and he is hoping Lower Makefield will be the third.

Mr. Ebert stated he wanted to advise the Board of another item that will impact the future sewer rental rates with the City of Philadelphia. He stated the City of Philadelphia currently has a combined storm sewer and sanitary sewer system. He stated when there are peak flows, all the excess flows go out to the River; and EPA is requiring that they separate their system to minimize the overflows into the River. Mr. Ebert stated as a result the City of Philadelphia is requiring in all of their new Contracts that everyone proportionally pay for those upgrades to separate that system which will cost hundreds of millions of dollars. Mr. Ebert stated Bucks County Water and Sewer Authority has a current Agreement and is a large contributor of the flows since they send approximately 54 million gallons total peak day. He stated Delaware County Regional Sewer Authority sends 24 million gallons; and their Agreement ran out, and the only way they could get into an agreement or have their flows shut off was to agree to pay their proportionate share. He stated Bucks County Water and Sewer Authority has elected to litigate, and they brought in all the tributary Municipalities and asked if they wanted to comply and pay it, it would 5% to 7% annually so it is a very significant number over the years because of the compounding at 7% rather than 2% to 3%. Mr. Ebert stated Bucks County covered our costs in 2017 in their surplus funds, but in 2018 and going forward they have to convey those costs to Lower Makefield. Mr. Ebert stated he does not know where they are in the litigation, but he understands that the monies will be escrowed; and when the litigation is over, the monies will either be returned to Bucks County, and hopefully Lower Makefield, or they will be given to the City of Philadelphia. Mr. Ebert stated he will update the Board with regard to the litigation as he gets more information.

Mr. Lewis stated he understands Bucks County Water and Sewer Authority is also under litigation from Aqua America regarding the surplus funds. Mr. Ebert stated his understanding of the litigation is that it is for serving outside of their jurisdiction and the organic growth of their franchise. He stated the Municipalities Associations allows you to grow organically – going to the next Township. He stated Bucks County was going to put an offer in for areas outside, and they put offers in at Limerick and West Conshohocken Borough and they were going after Exeter Township. He stated they were going “large and wholesale all out,” so Aqua has filed

a lawsuit against Bucks County Water and Sewer Authority to prevent them from going out in the future. He stated Aqua also wanted to make a move against Warminster and potentially purchase Warminster and some other areas, and they wanted to lock them in. He stated this was “also a shot” against Northwest Water Authority for expanding and the Lehigh County Authority. Mr. Ebert stated he has read the complaint and he is following it closely. He stated Aqua did distribute information to all the adjoining Municipalities so that everyone would know what they are doing.

Mr. Lewis stated his concern is that the surplus funds could be used for “cross-subsidization” between other components of Bucks County Water and Sewer Authority that may not be available for Lower Makefield sewer ratepayers for other items. Mr. Truelove stated that is one of the issue they want to look at because the Authority is a public entity, and they need to see if they are using those surplus funds not to defray the costs to the member Municipalities and Authorities but to acquire these other entities as Mr. Ebert has indicated.

Ms. Tyler asked what is Bucks County saying about the City of Philadelphia in their litigation; and Mr. Ebert stated they are saying that there is a valid Agreement and Contract with them, and you cannot change the terms of the Contract until it expires. He stated Bucks County is saying that these costs are not allowed under the current Contract, and they cannot arbitrarily change it because the EPA has asked them to do an upgrade. Mr. Ebert stated conveyance has been purchased, and there is a Contract that says how much will be paid for sewer rental until the year 2025, and they cannot add any costs to that. Mr. Ebert stated when the Contract expires, that would be a new negotiation. Ms. Tyler asked if that is similar to Lower Makefield’s position with Morrisville. Mr. Ebert stated it is a little different because the Township has a never-ending Contract with Morrisville, whereas the City of Philadelphia and Bucks County have a term to their Contract with many more Conditions. Mr. Ebert stated Lower Makefield’s Agreement with Morrisville is more of a cost-sharing Agreement. He stated Lower Makefield does not own the Plant, but they are sharing in all the Capital and Operating costs on a percentage basis whereas Bucks County actually bought capacity at the City of Philadelphia, and they have the right to walk away from that and pull all their flows when the Contract ends.

Ms. Tyler asked if there should be a term on the Agreement with Morrisville. Mr. Ebert stated when the original Agreements were written, there was no option; and Lower Makefield did not want to have a term where Morrisville “could kick them out,” and Lower Makefield would have nowhere to go so it protected both sides by being a never-ending Contract. Mr. Ebert stated now forty years later, there may be options. Ms. Tyler asked when we are re-negotiating the Contract with Morrisville could Lower Makefield just purchase capacity for a certain duration, and would this benefit Lower Makefield. Mr. Ebert stated they would have to consider

what they are purchasing and for how long. He stated that would only be good if they could sell it to someone else. He stated if they were to walk away, they would be walking away from the asset they had purchased and invested in.

Ms. Tyler asked with regard to the Transmission Agreement is there a term attached to that Agreement, and Mr. Ebert stated there is not to the Supplemental Agreement. He stated the only way they could get out of it would be if they were to defease their proportionate share of the Bonds. Mr. Ebert stated it is really a Lease, and Lower Makefield does not own any capacity, rather we lease it every year; and Lower Makefield could not sell that.

#### Discussion of Morrisville Municipal Authority Sewage Plant Issues and Consideration to redirect Flows

Mr. Ebert reviewed the different options including the upgrade of the existing treatment plant which they have estimated at \$85 million. Mr. Ebert stated he has worked with their engineer, Pennoni Associates and “fleshed that option out;” although it has stopped right now to see whether the U. S. Steel site option is viable. Mr. Ebert stated in order for that to be viable, there would have to be participation and a financial commitment by either Falls Township or U. S. Steel directly. He stated the flows for U. S. Steel and Falls would be approximately 3 million gallons, and currently the capacity at the Plan is approximately 7 to 8 million gallons. He stated they would expand it up to 10 million gallons if Falls wanted to participate or if U. S. Steel made a commitment. Mr. Ebert stated he discussed this with Mr. Tim Hartman at the Township of Falls Authority, and Mr. Hartman had indicated he did not see how that would be feasible; however, Mr. Ebert then followed up with the Solicitor for Falls Township who indicated that the Board of Supervisors is taking careful consideration of that, and they will make a decision by the end of the month. Mr. Ebert stated this was discussed at their last meeting.

Mr. Ebert stated a third option is that U. S. Steel could become a direct customer of Morrisville, and this would mean that there would be someone else who would be participating at approximately a 20% cost which would change the financial analysis as Lower Makefield’s proportionate share would be lower as would the long-term operating costs since our flow would be a smaller percentage. Mr. Ebert stated they are in a “holding pattern” until they find out if Falls is committed and at what amount. Mr. Ebert stated there is also the possibility that U. S. Steel “comes to the table,” and they could put \$20 million.

Mr. Ebert stated Mr. John Warena, the Executive Director of the Morrisville Municipal Authority, has approached the Township of Falls Authority; and some Board members, although not a majority, who indicated they would like more information. Mr. Ebert stated he also believes that Mr. Warena has spoken to representatives of the Falls Board of Supervisors. Mr. Ebert stated Mr. Bob Campbell, the Authority engineer for Morrisville, advised him that if there is no commitment, they will go back to the existing site as it would not be financially feasible to go to the U. S. Steel site without a commitment from either U. S. Steel or Falls to sewer their area.

Mr. Ebert stated Mr. Warena is going to attend the next Sewer Authority meeting and those Supervisors interested may attend. He stated he is not sure that meeting has been confirmed. This meeting would be held the fourth Thursday of February. Mr. Fedorchak stated he would recommend that the Board of Supervisors invite Mr. Warena to come to a Board of Supervisors meeting as their meetings are televised, and he believes that Mr. Warena's message would be something of interest to everyone in Lower Makefield.

Mr. Ebert stated there has been no real progress yet on a Regional Authority being created to manage the Treatment Plant. He stated Mr. Campbell did make the comment that if they were to build on the U. S. Steel site, there could be a Regional Authority; however, he was not sure that same offer would be on the table for the upgrade at the existing plant. Mr. Ebert stated he feels that is a matter for the Boards to discuss and not the engineers.

Mr. Ebert stated there are two other options that Lower Makefield could potentially explore, one of which is to go to the Lower Bucks Joint Authority; but this would require that Yardley Borough go in with Lower Makefield to go there. Mr. Ebert stated the Sewer Authority has written a letter to the Board of Supervisors asking that the Board authorize him to explore the engineering options and costs for this option. He stated there have been some staff meetings, and it was determined to be a feasible option. Mr. Ebert stated he would have to have authorization to look into this, lay out a route, consider the costs, and consider what an Agreement with them would look like.

Mr. Ebert stated the fourth option which would also require Yardley would be to take all of the flows and go to Bucks County Water and Sewer Authority. He stated he feels they should analyze this. He showed on the rendering how they could handle the flows going to Bucks County Water and Sewer. Mr. Ebert stated he feels they need to do this as part of the 537 Plan.

Mr. Ebert stated the Board has a lot of decisions to make and long-term planning that will impact the finances of the Township and the sewer rental rates of the customers for the next fifty years. Mr. Ebert stated he would like direction from the Board as to whether he can proceed with doing a cost analysis and engineering feasibility to go to the Lower Bucks County Joint Authority and a separate direction to investigate sending all of our flows to Bucks County/Neshaminy Interceptor.

Ms. Tyler moved to authorize the sewer engineer to determine the viability of directing Lower Makefield Township's flows to Lower Bucks Authority.

Mr. Lewis asked if they also want to consider the other options as well which would also be flows to Bucks County Water and Sewer, all flows to MMA, and potentially, although unlikely, possibly building our own plant.

Ms. Tyler withdrew her original Motion and moved to authorize the sewer engineer to explore all options for transmission of sewage throughout Lower Makefield Township including Lower Bucks Authority, Bucks County Water and Sewer, MMA, and all other feasible options

Mr. Ebert stated initially they were trying to minimize the options, but at this point he agrees they should put everything on the table so that the Board can make the best-informed decision.

Mr. Grenier seconded.

Mr. Harold Kupersmit asked Mr. Ebert if he is aware of any bacteria in any of the plants, and Mr. Ebert stated there is absolutely bacteria in the plants as that is what the biology works on. Mr. Kupersmit asked how he will assess the risk to the health of residents "all over the world." Mr. Ebert stated the discharge of the treated effluent has to meet Pennsylvania Department of Environmental Protection standards through the NPDES Permit, and they establish the criteria by which we are allowed to discharge and the level the treatment plants must treat them to. He stated if they do not do this they could be in violation and potentially could be shut down or taken over by DEP or the EPA if they do not comply. Mr. Kupersmit stated the Supervisors have nothing to do with operating the plant. Mr. Ebert stated that is why they are considering what is the best long-term alternative and who they feel would responsibly operate the treatment plant. Mr. Kupersmit stated he feels it would be the best way to go to find out what the exposure is for everyone in the Country. Mr. Ebert stated they will have to treat the wastewater to a standard that meets the requirements of the regulators who determine what they need to treat it to to protect the environment. Mr. Kupersmit asked if they are not concerned with any threats to the public at this point in time because there are "bugs" in the wastewater treatment plants. He stated the Supervisors already authorized in

November spending \$3 million going ahead with these plans. He stated he has written all over the Country and to the CDC, and it is suspicious because they are not responding to him. Mr. Kupersmit discussed some of his other concerns with the Country.

Motion carried unanimously.

Approval of Yardley Borough Sewer Authority Transmission Agreement and Capital Obligations and Approval of Resolution Adopting the Yardley Borough Sewer Authority Act 537

Mr. Ebert stated this was brought before the previous Board in December and it was agreed to adopt it but they did not pass a Resolution to formally adopt it which is a requirement of the DEP. He stated because there are three new Board members, he would like to provide an overview of the Yardley 537 and why Lower Makefield has to adopt it. Mr. Ebert stated in order for Lower Makefield's future flows to go through Yardley since Yardley's sewer lines are at their capacity, they need to upgrade three sections which will cost approximately \$3 million. He reviewed the work that needs to be done in each of the three sections. He stated the estimated cost in 2015 was \$2,960,000, and Lower Makefield's percentage based on the flows is approximately 84.5% or \$2.5 million.

Mr. Ebert stated with regard to our projected flows, he has projected 550 additional EDUs to flow there by the year 2020, and approximately 882 total EDUs to flow there over the next twenty years. He stated the goal of this project is to provide capacity through Yardley Borough to meet the twenty-year needs of Lower Makefield Township.

Mr. Ebert stated DEP wants Lower Makefield to adopt Yardley Borough's 537 because this will commit Lower Makefield to \$2.5 million; and DEP wants to make sure that the Lower Makefield Board of Supervisors understands their commitment before DEP will approve the project. He stated he understands that the Board had previously taken out a Bond which includes the money to fund this project. Mr. Ebert stated there is a Resolution ready for consideration of adoption for the Board this evening.

Ms. Tyler stated they just made a Motion for Mr. Ebert to examine all their options, and she asked if that prior Motion and investigation impact this at all. Mr. Ebert stated Lower Makefield has already signed an Agreement with Yardley Borough, and they are already committed to this. He stated for almost every scenario he

could come up with, the Township would be using these lines anyway. He stated it is highly unlikely, although not impossible, that Lower Makefield would separate their flows from Yardley Borough.

Mr. Grenier asked Mr. Fedorchak if the \$2.5 million is from the \$15 million Bond, and Mr. Fedorchak agreed. Mr. Grenier asked Mr. Ebert to explain for the audience what EDU means. Mr. Ebert stated EDU stands for equivalent dwelling unit which is identified as 250 gallons per day, and it is the flow that is assigned to a residential house. He stated you do not want your Residential areas subsidizing the Commercial or the Commercial subsidizing the Residential. He stated the term EDU is used as an equalizer so everyone is treated equally and fairly. Mr. Ebert stated there are 100 EDUs for Commercial and 400 for houses. Mr. Grenier asked what future capacity they have given the number of EDUs they are looking at, and Mr. Ebert stated it basically allows for the full build out of the area. He noted the area on the rendering adding that while it looks like a lot of land, a lot of it is preserved open space that will not be developed. Mr. Ebert stated this is an estimate.

Mr. Fedorchak asked Mr. Ebert the current status of the three Borough projects, and Mr. Ebert stated they have really “gone nowhere.” He stated he was advised today that all they have done so far is survey and have done no design. He stated he feels they are at least a year away from having a completed, Permitted design; and they have been at that place since 2016. He also noted that the cost estimates are 2016 numbers, and he feels it will be a 2019 construction project. Mr. Fedorchak stated he recalls that one of the projects was a parallel line that would cut through the center of town, and that it was highly likely that rights-of-way would be required to construct the line, and he asked Mr. Ebert if that is his understanding; and Mr. Ebert agreed.

Mr. Grenier stated he understood \$7.5 million out of the \$15 million in the Bond was allocated for sewers, and Mr. Fedorchak stated that is what was budgeted. Mr. Grenier stated if \$2.5 million of that is for the Yardley issue, that would leave approximately \$5 million; and Mr. Fedorchak agreed. Mr. Fedorchak stated there is also a finite amount of time in which they have to spend the money, and he feels where the Borough is at now is “way behind” the timeline they gave the Township two years ago. He stated the timeline they gave two years ago suggested that they would be under construction at this point.

Mr. Lewis stated with regard to the Yardley Borough Act 537 Plan, the Board could vote on that and the Bucks County Water and Sewer Authority at the next meeting since there are three new Supervisors. Mr. Lewis asked if there is anything that would be in the “critical path” if it were voted on next meeting, and Mr. Ebert stated

the “critical path” would be more with the Bucks County Water and Sewer Authority item because that would be delaying the development of Matrix and the release of their EDUs. Mr. Lewis asked if we are in the “critical path,” with them, and Mr. Fedorchak agreed adding they have been in a holding pattern for nearly a year largely because of what Mr. Ebert is explaining. Mr. Fedorchak stated Matrix has commitments they want to finalize with builders and others who are involved in making their project move forward. Mr. Fedorchak asked if the Board would feel comfortable approving it tonight, that would be helpful. He stated Mr. Ebert had earlier indicated that if they can get this Agreement approved by the Board of Supervisors, within the next week Mr. Ebert could have a completed 537 Plan draft since the Corrective Action Plan is already approved. Mr. Fedorchak stated if Mr. Ebert can have the 537 Plan draft in to DEP, at that point notwithstanding all the time lines we are legally obligated to follow, he would hope that they could go to DEP indicating they have two approved and one left and request that they release 62 EDUs so that they can move forward with some of the projects. Mr. Lewis stated it would be a straight, two-week “critical path,” and Mr. Fedorchak agreed.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the Resolution adopting Yardley Borough Sewer Authority’s Act 537 Plan.

Mr. Tyler moved and Mr. Grenier seconded to approve the Revised Transmission Agreement with Bucks County Water and Sewer Authority as outlined by the sewer engineer this evening.

Mr. Mike Brody, 509 Brook Bend Court, asked if the Plans they are getting were developed by Mr. Ebert or the other Authorities. Mr. Brody stated he feels Morrisville was not handled the best way, and he wants to make sure that they are not just trusting the people who “got us in this situation.” Mr. Lewis stated since that time period two years ago, there is a new sewer engineer, and we have had numerous meetings with MMA including public ones last year; however, that is only one part of the overall sewer strategy. He stated the Bucks County Water and Sewer Authority which is what they are voting on tonight is entirely separate from MMA.

Mr. Ebert stated the past Board of Supervisors and the current Board of Supervisors were not accepting what Morrisville said, and so he did an alternative analysis. He added what the Board authorized tonight was for him to further explore two additional options. He stated ultimately Lower Makefield, Yardley, and Morrisville all must select the same alternative if Lower Makefield is going to continue to go to Morrisville. He stated it is possible that Lower Makefield and Yardley may decide to go to Lower Bucks and pull all of their flows out of Morrisville. He stated everything is on the table. Mr. Ebert stated he “dissected” all Morrisville’s treatment plant costs. Mr. Ebert stated they have to look at all the alternatives for where they could send their flows. He stated there needs to be a financial discussion and they have to

consider the sewer rental rate increases since even though the Township took out bonds, ultimately it is the sewer customers who are going to be paying the bonds off through their sewer rental fee. He stated they need to see what that looks like over twenty years.

Mr. Brody asked when they feel the two Boards will be discussing a Joint Authority. Mr. Ebert stated Lower Makefield has repeatedly indicated that is a very important topic for the Lower Makefield Board of Supervisors, and he does not feel any meaningful discussions on a selected alternative will happen until that issue has been addressed.

Motion carried unanimously.

Mr. Ebert asked if he should schedule a meeting with the Board of Supervisors every other month or once a quarter to provide a shorter update than what took place this evening. He stated with regard to what he was authorized to proceed with this evening, he would like to get meaningful input from the Board as he proceeds rather than waiting until the end to make sure he is going in the right direction.

Ms. Tyler stated they are discussing all of these options, and she asked Mr. Truelove if all of these discussions should be taking place during the public meeting since they are trying to develop a strategy. She asked Mr. Truelove to consider as the go forward what aspects of the discussion should be public since at some point they may not want to discuss everything publicly. Mr. Truelove agreed that there are certain negotiating points they would not want to discuss publicly before the Board has an opportunity to discuss and strategize, and that is appropriate in a situation like this as it could be existing litigation, potential litigation, or other aspects.

#### PRESENTATION OF ALTERNATE PLAN FOR REDEVELOPMENT OF FIELDSTONE SITE

Mr. Edward Murphy, attorney, was present with Mr. Jeff Goll, President of Princeton Hydro, who has been the environmental consultant that has been retained consistently throughout this project for nearly twenty years. Mr. Larry Dugan, representing J. P. Orleans, the Contract purchaser of the property, was also present.

Mr. Murphy stated they have spent the last four to five months having discussions with the Township staff trying to identify a Plan that they are referring to as a “By-Right Plan,” so that they could find out what the current Zoning Ordinance would permit if the site were to be developed in accordance with the Township

Ordinances. Mr. Murphy stated separately they also prepared a Plan that would represent what the preferred approach would be to better reflect what the Applicant feels would be better housing styles, lot size, etc. Mr. Murphy stated since there are three new Board members they invited Mr. Goll to attend this evening so that he could provide the twenty years of experience he has with regard to the environmental conditions of the site.

Mr. Murphy stated the Harris family owned this property since the 1930s and both farmed it and used it as a sand and gravel borrow pit. He stated the total site is approximately 39 acres, and the rear most approximately 15 acres was used as the borrow pit up until the early 1960s. Mr. Murphy stated then the Harris family and others started using that borrow pit as an un-Permitted Municipal landfill which was not uncommon at the time and it pre-dated State regulations for a Municipal landfill. Mr. Murphy stated it was used fairly consistently by individuals and the Township, and it largely contains traditional homeowner, construction, and landscape debris. He stated it was used between the early mid 1960s and the mid 1980s until the Township reached out to DEP and advised them that this condition was going on unabated, and DEP then directed that the activities stop. Mr. Murphy stated DEP at the request of the Township started its own investigation and directed that the site be capped.

Mr. Murphy stated Mr. Goll got involved after the Harris family first entertained Agreements of Sale with different developers, and he has been the most consistent participant over the years.

Mr. Murphy stated he and Mr. Dugan were most recently at the Planning Commission where Mr. Grenier was present, and he had asked a fair number of questions because of his background which were technical. Mr. Murphy neither he nor Mr. Dugan felt comfortable answering those questions, so Mr. Murphy asked Mr. Goll to attend the meeting this evening. Mr. Murphy stated he feels before they talk about the Plans, it would be good for Mr. Goll to discuss the extent of his and his firm's involvement with the property including the type of testing that has been done and what the interaction has been over the years with DEP.

Mr. Goll stated his firm got involved with the project in 1998 when they completed a Phase I Environmental Assessment for the Quaker Group which was entertaining purchasing the property for development from the Harris Family. Mr. Goll stated it was soon discovered that the site contained a landfill, and the Township helped make them aware that there was a landfill on the site. Mr. Goll stated under the review of the Township's consultant at the time, Skelly & Loy, his firm completed sixty-seven test pits to explore the depth and characterize visually the extent and what the landfill material was comprised of.

Mr. Goll stated subsequent to that the site laid quiet for a few years, and K. Hovnaian came in in 2003; and they were interested in purchasing the property from the Quaker Group. Mr. Goll stated in 2003 his firm was contracted to conduct another eleven test pits and collect soil samples to have them analyzed at a laboratory. He stated they also installed four groundwater wells to assess the existing groundwater conditions. He stated there were also three existing monitoring wells on site that had been installed by the Pennsylvania Department of Environmental Protection in 1986 when they first told the Harris family to close and cap the landfill. Mr. Goll stated those wells went into the bedrock below the landfill material. Mr. Goll stated his wells were drilled to sample the groundwater within the landfill matrix material. He stated they wanted to capture that material at the point of compliance which was at the property edges where the groundwater would go to which is Brock Creek.

Mr. Goll stated when they installed one of the wells they found high hits of MTBE, and it was found this was in an area where the Harris operation used to clean their landscaping equipment which involved the use of gasoline; and some of it spilled onto the ground and got into the groundwater. Mr. Goll stated they did a delineation of the MTBE, and the Township in concert with the Quaker Group filed a complaint against the Harris family to stop the landscaping operations and contaminating the groundwater. He stated the Harris family agreed to stop, and the litigation went no further. Mr. Goll stated as soon as they stopped, the MTBE contamination levels dropped to well below the standard.

Mr. Goll stated since that time they have met with DEP on a number of occasions and each time they agreed with the findings of Mr. Goll's analysis in that while there is construction and demolition material within the landfill and asphalt and other concrete products, they never felt it was a significant threat to the health, safety, and welfare of the public. Mr. Goll stated their well sampling showed that there were no dissolved contaminants leaving the site or even in the groundwater within the landfill. He stated some of the soil did contain contamination above direct contract criteria; but DEP felt as long as they provided a soil cover of the site, cleaned up the stream banks of Brock Creek, and filed Deed Restrictions through the Act 2 process that would be sufficient for DEP and not be a future liability to the landowner.

Mr. Goll stated since then he believes Beazer Homes looked at the property a few years ago, and now J. P. Orleans has Contracted his firm to do another review of the site. Mr. Goll stated they recently excavated several more test pits on the northern end of the landfill to gain more characterization as to the extent of the landfill material near the wetlands because the State wants them to remove the waste material that is in the wetlands and to restore the wetlands to its former condition.

Mr. Murphy stated four to five months ago they started working with the staff to develop a Plan that they could all feel comfortable with as a base line from which they could talk about other improvements to the Plan. Mr. Murphy stated they presented those two Plans to the Planning Commission, and the Planning Commission endorsed the Plan that had fewer, larger lots, and side-entry garage homes as opposed to the by-right Plan which had a few more homes. He showed this evening renderings of the by-right Plan and the preferred Plan with 32 lots which most people felt was better. He stated the by-right Plan had smaller lots and because they were smaller lots required front-entry garages, and they felt those were probably inconsistent with the large style homes in the immediate area most of which have side-entry garages. Mr. Murphy stated the 32 lot Plan has a few less lots which are wider, and have side-entry garages.

Mr. Truelove stated the area that was part of the remediation was subdivided a year and a half ago, and that is shown as Lot 2 on the Plans. Mr. Truelove stated the intention was to segregate the area of the landfill which is larger in gross area than the actual landfill itself as originally the landfill was identified as eleven acres, and the Lot #2 area is approximately 16 acres. Mr. Murphy stated it was intended that Lot #2 not be incorporated into any individual homeowner lot. He added it was proposed that Lot #2 would be owned by the Homeowners Association but only after Act 2 clearance was achieved.

Mr. Goll stated Pennsylvania enacted the Act 2 process to provide an innocent purchaser relief of liability for a landowner that is a willing to remediate a property; and as long as you do all the due diligence investigations, you are relieved of liability associated with what you find and what you remediate. He stated also as part of the Act 2 process, the State has to review and approve the plan and the final remediation report to show that you have complied with the Act 2 standards. Mr. Goll stated as part of the Act 2 relief of liability for this site, because it is an un-Permitted landfill, they are also going to be requiring a Deed Restriction for the site because it a site-specific solution wherein there will be waste material that will remain, and there will be soils that do contain contaminants above the health and safety standards except it will be covered and Deed Restricted so that no one is allowed to go in there and dig and expose any of the material.

Mr. Murphy stated the remediation proposed for this involves installing 2' of clean fill on top of the area of the landfill and also removing some of the material from the perimeter of the site where it abuts Brock Creek, and Mr. Goll agreed. Mr. Murphy stated at earlier meetings there were questions about what would be the annual cost of maintaining the area after it is capped and Act 2 releases have been issued, and he asked Mr. Goll if he has done any initial calculations as to what those costs might be and what maintenance would be involved on an annual basis. Mr. Goll stated the routine maintenance of the site would be an annual inspection preferably

by a Licensed professional engineer/ecologist to make sure that all the vegetation is healthy since that will essentially be the erosion protection and stability for the landfill. He stated they would look for areas of erosion and excessive settlement, and make sure that all the engineering controls are remaining in place. He stated because they proposed that the end use area of the landfill area would be a maintained meadow, in order to keep woody vegetation and trees from growing back that could compromise the cover material, they would mow it once a year and maintain it as a wild meadow which according to the ecologists in his office would be a rare habitat for varying bird species and it would have a local ecological benefit. He stated if they had to repair minor areas of erosion due to settlement or erosion, they would need an excavator and a truck with some topsoil and seed. He stated they calculated the cost per year to be \$9,900.

Mr. Murphy stated one of the threshold issues for Orleans or any future buyer is how they manage the cost of the clean up and how that translates into the developability of the balance of the site. Mr. Murphy stated they hope to get some encouragement from the Board to proceed with the preferred Plan, and that would enable the developer to reengage with DEP and push forward with taking the steps to proceed with the Notice of Remediation concurrently with the pursuit of the Subdivision Plan. He stated once they have a sense from the Board as to what level of development they will authorize, that will enable them to take the next step. He stated this is a Sketch Plan and no official action is being sought, but they would like to know if they are headed in the right direction.

Ms. Tyler asked what the Planning Commission was in favor of, and Mr. Murphy stated the Planning Commission preferred the Plan with fewer, larger lots which was the 32 Lot Plan. Ms. Tyler stated Mr. Murphy made reference to a By-Right Plan, and she asked if he was including the segregated property; and Mr. Murphy stated they are, and they included Lot #2 in the density calculations. Ms. Tyler stated they are asking the Board to allow them to include the calculation of the landfill as part of the approval process, and this has been an issue for the Board. Ms. Tyler asked what is the approximate cost to get to the point where DEP will sign off and allow development. Mr. Goll asked Ms. Tyler if she is asking for the cost of the remediation of the landfill to a standard that they will accept, and Ms. Tyler agreed. Mr. Goll stated it is in excess of \$1 million. Ms. Tyler asked if there is an estimate of the total cost of cleaning up the landfill in its entirety would be. Mr. Goll stated it is \$1 million. Mr. Grenier stated the \$1 million is to put the cap on, and Mr. Goll stated it is the cost to put on the cap, stabilize, excavate, and do all the construction work. Mr. Grenier stated he feels Ms. Tyler was asking what would be the cost to remove the materials from the landfill, put in clean fill, etc.; and Mr. Goll stated in 2003 they looked at that option, and they were going to look at removing all of the fill from the landfill and then extend Long Acre Lane and add homes back there once they cleaned up and replaced the landfill. He stated in 2003 numbers

it was over \$6 million at least if not more. Mr. Goll stated there is about 127,000 cubic yards of material within the site, and to remove it would be exceedingly expensive; and at the time, the developer could not make the numbers work.

Ms. Tyler asked what would be the true by-right numbers they could put on the property, and Mr. Murphy stated it would probably be less than half on an acreage basis.

Ms. Tyler asked in five to ten years during the annual maintenance inspections, if they discover something is it feasible DEP could come in and require a clean up depending upon what is found or does the Act 2 approval prevent that from happening. Mr. Goll stated the Act 2 process protects you from what you know about the site, and the sign-off from DEP would be for the specific contaminants that were investigated. He stated if there was some unknown contaminant that was not seen before, that is not part of the Act 2 protection liability; and that is why they had to go in and do an extensive amount of investigations on the characterization of the site. Ms. Tyler stated if that were to happen the liability for that clean up would then fall upon the homeowners in the development, and she asked if that would be part of the Deed Restrictions and obligations for those eventual owners. Mr. Goll agreed that would be correct if that were to occur; however, based on all the groundwater monitoring they did the groundwater wells are like a “fingerprint” of the site, and you would pick up anything that was out of the ordinary just like they picked up the MTBE when it was on site. He stated there was really nothing that they detected that could have been placed in the landfill that was contaminating the groundwater to a level that was an issue at the edge of the property.

Ms. Tyler asked if the developer would consider posting a bond to cover the cost of a potential clean up in the future. Mr. Murphy stated he had been in the audience listening to others make presentations about this property over the years, and he knows there were questions about the contingent liability and unfunded opportunity came up, and the answer was “yes;” and they will have to negotiate and create a fund to the benefit of the HOA that could cover that although they do not yet know what that amount is. Ms. Tyler asked would this be an Escrow Agreement; and Mr. Murphy stated in other Municipalities where they have done it, it was a Condition of Approval that an Escrow Fund be established for the benefit of the HOA, and the HOA would have the money, and it would be required that periodic statements would be provided by the HOA to the Municipality to ensure that the balance was at a given level and there would be proof of annual inspections to be provided to the Municipality.

Ms. Tyler asked about the developer/owner maintaining ownership of the landfill property and developing the other parcel by right. Mr. Murphy stated if they are going to argue about whether or not they are going to be allowed to include Lot #2 as part of the density, the site will just sit there because no one will step forward and do anything without having the opportunity to reclaim some of the costs. He stated if that is the position of the Board, it would be best if everyone said so now. Ms. Tyler stated she is not sure where she stands including Lot #1 and Lot #2 as far as density, and she feels that it is too dense; however, she is more concerned about the potential liability of the future homeowners for the site. She stated she recognizes that they have done a lot of test pits and what it currently shows is that it is okay. She stated she does not feel they should get the full amount of credit for the landfill since they should not look at it as if it were pristine property to build the development. Ms. Tyler stated she appreciates what it takes to develop the property, and she recognizes the benefit of remediating and capping the property; but she feels the people who are responsible for whatever is on the property are the developers who bought the property with the hope of making money. She stated the Board needs to decide what credit, if any, they would give for Lot #2 and how can they potentially protect the future homeowners, and what density they will allow.

Mr. Lewis asked the average lot size of the 32-Lot example, and Mr. Dugan stated it is approximately 16,000 square feet which is a little less than a half acre. Mr. Lewis asked the expected list price for the homes, and Mr. Dugan stated it would probably be starting at \$700,000 and they would try to reach \$800,000. He stated the cost of the remediation of the landfill is quite substantial, and this is an atypical cost so if they can get \$750,000 to \$800,000 for the homes, they would do that. Mr. Lewis asked what the projection would be on the 36-Lot Plan. Mr. Dugan stated it is less desirable, and he feels they would be starting in the \$500,000s. He stated ideally they like the 32 Lot Plan as they are larger lots and are more compatible with the nature of the community.

Mr. Lewis asked Mr. Murphy if they would require any Zoning Variances for the 32-Lot Plan, and Mr. Murphy stated tentatively he does not feel they do. He stated they tried at the Sketch Plan to make sure that they were avoiding that. He stated they know that there will be Subdivision and Land Development Waivers needed. Mr. Lewis asked if there are sidewalks proposed for the 32 -Lot Plan, and Mr. Murphy stated they are proposed on both sides.

Mr. Lewis stated there were extended discussions with the developer's prior counsel on the concept of contingent liabilities which is his concern. Mr. Lewis stated he is open to the discussion because he does see value potentially fixing and capping the second Lot; however, he would not want there to be any contingent liability to the Township. He stated if something arose that was not found previously which required significant remediation it could use up the Escrow

Fund of the HOA and conceivably it could be a circumstance where HOA members would have a situation where they may owe this large liability and would rather exit their home or bankrupt the HOA than address the situation. Mr. Lewis stated at that point they would have found an environmental situation, and the HOA would be bankrupt or homeowners could decide to abandon their property, and he questions what would happen at that point. He stated there would be a situation on Lot 2 which requires remediation that the Act 2 process would not cover. He stated Mr. Goll had stated that there was asphalt, and that has petroleum products in it. Mr. Lewis stated he feels the Township residents will say that the Board allowed this situation, and now the Township has to pay for the clean up. He stated he does not want that under any circumstances so he would not vote to consider approval unless all contingent liabilities are removed from the Township. He asked if there is insurance where Lower Makefield Township is a named insured, and he asked if there are penalties if anything goes out of compliance with the Escrow Agreement. He stated he does not want to be in a situation where they are taking peoples' homes to fund an environmental clean up. He stated while he feels the risk is somewhat minor, he needs to protect against it. He stated he feels this needs to be resolved before they can move forward and there would be no circumstance under which any Township Board of Supervisors would ever have to pay one dollar to remediate, oversee, etc. Lot 2.

Mr. Lewis asked what would the source of the cap for Lot 2 be, and he asked if it would be from Lot 1 or from another source. Mr. Goll stated they have discussed several different options for the cap. He stated there is an existing cover, and one option is to reuse the existing cover. He stated in 1986 DEP told the owner at the time that they needed to cap it, and the owner brought in material and capped it with that; but under its current condition it is not acceptable. He stated one option is to strip the cap off and screen it; and if there is debris in it, that would be moved away. He stated they would then test the soil and what meets the Act 2 clean fill standards would be reused as a cap. Mr. Goll stated the second source of material could be from an excess of excavation of the developed portion of the site which has been deemed undisturbed. He stated in 2003 the Planning Commission asked that they test the front end for pesticides which they did, and that came up clean. He stated the third option would be to import certified clean fill to cover the site.

Mr. Lewis asked which option of Mr. Goll's clean up estimate was included in the \$1 million; and Mr. Goll stated while he does not recall, he believes it was a hybrid of all three options.

Mr. Lewis asked Mr. Goll if he has been the only person to review the environmental reports and testing; and Mr. Goll stated he has been involved through the entire process, but as he noted earlier when he first got involved Lower Makefield Township had hired Skelly & Loy, environmental consultants, specifically for this

project, and they were out in the field with him when they were doing the test pits, and Skelly & Loy also completed their own reports with his firm and they reviewed that. Mr. Goll stated in 2003/2004, Birdsall was the Township's environmental consultant, and they also reviewed his information. Mr. Goll stated he also sent all his information and testing results to DEP. Mr. Goll stated DEP maintained their position since 1986 that the site needed a soil cover.

Mr. Lewis asked if Mr. Goll is aware of any Act 2 remediated parcels in Pennsylvania where materials were found later that required significant clean up, and Mr. Goll stated he is not aware of any. Mr. Goll stated it is not unusual for a closed landfill to be incorporated as part of a development although probably not too often in Bucks County since there are not many landfill opportunities in Bucks County; however, it has been done before, and he knows that there is one in Falls Township which was a closed landfill and it is done all the time in New Jersey where it is part of the redevelopment process. Mr. Lewis stated it would be helpful for the Board to know how many Act 2 parcels have been remediated in Pennsylvania over the past ten years, and how many of them had something come back, and he feels an insurer would make that same assessment as well.

Mr. Goll stated they need to remember what they identified in the landfill recognizing that they did not look at every square inch of the landfill. He stated all they have ever found was concrete, asphalt, wood, lumber, other type of construction debris, fish gravel, and sneakers. He stated they did over 77 test pits and the groundwater monitoring wells, and they never found a car, a drum, or any other type of material that would lead them to believe that there was anything that was a significant environmental concern in terms of a major source of contamination. He stated they tested the wells for everything that is on the Pennsylvania DEP regulated substance list, compounds and elements, and they have never found anything that was above a cleanup criteria that was of concern. He stated based on what they found, he does not feel there is anything that would indicate that they would find something in the future that would be a major problem.

Mr. Lewis stated there were problems with sink holes in a community where the developer had buried construction waste, and Township tennis courts were effected by a sink hole. He stated this was Toll Bros. and there was Township time, effort, and expense involved to get that resolved. Mr. Lewis stated he wants there to be zero liability to the Township; and if they can get to that, he would be more willing to look at the development.

Ms. Tyler asked what is the current monitoring situation, and Mr. Goll stated they are not monitoring anything now; and they have not done anything since 2010 or 2012. Ms. Tyler asked when they last did monitoring what did they find. Mr. Goll stated they found typical metals – nickel and lead. Ms. Tyler asked where nickel would come from, and Mr. Goll stated it comes from the soil as it is a naturally-occurring element and could come from metal debris. He stated what they found was well below the drinking-water standards.

Ms. Tyler stated she feels that absent a complete clean up of the second section, they could not get full credit for that property. She stated perhaps there could be some credit for the capping, but they could not include the whole piece of property in their calculations for the as-right build. Mr. Murphy stated he appreciates Ms. Tyler's candor, but he does not feel this Applicant will completely clean up the site. Ms. Tyler stated she does feel there would be some value for the clean up of Brock Creek and capping, but she does not feel it would calculate to the full value of the green space.

Mr. Grenier stated he has worked on Act 2 sites although they were in the industrial sector where it was owned by the original owner who did the clean up and then reused it for something else. He stated Residential reuse of an Act 2 site is different although he recognizes that it is not outside the norm. Mr. Grenier stated he requested the reports from Mr. Majewski which were provided but he has not had the opportunity to completely review them. Mr. Grenier stated it appears that with regard to the sampling, they did one every 6,000 square feet so they covered a fair amount. He asked if they did a cross-sectional drawing of what it looks like underneath and if there is void space. Mr. Goll stated in 2000 they did interpretative diagrams in two dimension, and in 2003/04 they used GIS and AutoCAD and took the test pit information in the profiles and that is how they know that there is about 36,000 cubic yards of cover that was placed there because they were able to take all of the information from the test pits and create a three-dimensional computer model to calculate the actual total volume of material. Mr. Goll stated he does not know what every cubic foot is, but they know generally what the different strata entails.

Mr. Grenier asked how deep they were finding landfill material versus soil. Mr. Goll stated the average thickness of the current cap material is just under 2' throughout the site; and in some areas it is 4' thick and in others it is 1' thick. He stated the trash itself they found that is underneath was as thin as 1' thick at the northern end and going toward the Railroad tracks and by Long Acre Lane and toward Brock Creek there was 15' to 18' of material. He stated it is 127,000 cubic yards of material. Mr. Grenier asked if they tested it where it is the deepest, and Mr. Goll stated they generally did a broad view of the test pits and they broke it up into eleven individual acre grids and tested the profile in those grids.

Mr. Grenier stated Mr. Goll had indicated there was asphalt and other concrete products mixed in, and depending what is on that product they can reuse it as fill for some development. Mr. Grenier asked if they have tested that material specifically to see if it is reusable in its current form, and Mr. Goll stated they have not.

Mr. Grenier stated Mr. Goll had indicated there were some constituents in the wetlands that they had to remediate. Mr. Goll stated they know that the extent of the waste goes into the wetland areas of the site adding a lot of the wetlands formed after the land filling. He noted on the Plan where the wetlands are located, and he stated they expanded as a result of the fact that they put the material there which blocked the hydrology and created an area where water could settle and create the wetlands in those areas. He stated they know that there is waste material underneath that, and DEP wants that material removed from the wetlands areas. Mr. Goll stated for those areas they will remove the material and then recreate the elevations and the wetlands that are in those locations.

Mr. Grenier stated that was outside of the capped area; however, Mr. Goll stated he feels it was capped as there is some semblance of cover material in that area.

Mr. Grenier stated their ultimate plan would not include capping the wetlands, and Mr. Goll stated it would not because they are going to be removing the material from there. Mr. Murphy stated they are going to recreate the wetlands.

Mr. Grenier stated he does not believe that they need a Chapter 105 Permit, and Mr. Goll stated they will coordinate with all the various agencies. Mr. Goll stated they will need a Corps Permit. Mr. Grenier stated the Township has its own Wetlands Ordinances, and he asked if Act 2 will allow them to go past the Townships Wetlands Ordinance. Mr. Truelove stated it would depend on how the Agreement is worded, and they will have to look into this. Mr. Murphy stated it may be a Federal preemption issue. Mr. Goll stated his firm does a lot of wetland and river restoration work and normally if they were to come into a Municipality to do restoration of the River, he does not feel the Township would stand in the way of them doing a restoration project. Mr. Goll stated he is not sure the Township's Wetlands Ordinances cover remediation or environmental restoration of a site, and Mr. Truelove stated that is his recollection as well.

Mr. Grenier asked if any of the lots infringe on any wetlands or buffers, and Mr. Murphy stated he believes that they do not.

Mr. Grenier asked if they did samples downstream in Brock Creek. Mr. Goll stated when he first got involved in the project there were a number of iron seeps that were coming out of the embankment; and that was one of the things that the Board of Supervisors were concerned about years ago. He stated they did testing, and they did get high hits of iron. He stated DEP sampled those seeps in the 1980s, and did not find anything.

Mr. Grenier asked if Mr. Goll did an analysis to determine what the potential was for sinkholes, and Mr. Goll stated they have not done any density testing on the material. He stated they excavated the test pits and a lot of the fill is consolidated. He stated there has been no landfilling activity since 1986, and it has been over thirty years since cessation of activities. He stated if you walk the site, you will see that it is undulating because it has had differential settlement and has been used by people riding illegally on ATVs. He stated he does not feel it is a matter of consolidation where you would place material and it would slowly sink over time. He stated they are only adding 2' of soil, and they are not going to compact it significantly because they want grasses and vegetation to grow there. He stated if it were to differentially settle and create an area of erosion, this is where they would have to go in; and monitoring it on an annual basis will allow them to catch something before it gets out of control.

Mr. Grenier asked who will be responsible for the Operations and Maintenance Plan for annual monitoring; and Mr. Goll stated although he does not know, someone would have to be responsible. Mr. Grenier asked who would enforce the HOA doing that. Mr. Murphy stated in one that was just concluded last year in Lower Moreland Township where, after going through the Act 2 process, there are homes being built today on the front piece and the back piece is the capped area, the Township asked that the HOA provide evidence of the annual execution of the Maintenance Agreement and required annual reporting that the Maintenance Contract has been enforced. Mr. Grenier asked if DEP requires any annual reporting, and Mr. Murphy stated he believes that they do. Mr. Goll stated the Act 2 solution is an engineering control, and DEP is going to want to make sure that engineering control remains in place in perpetuity.

Mr. Grenier asked if they have done any sampling on neighboring properties to see if anything has moved off site, and if there is any filling or leaking onto other properties. Mr. Goll stated when you go to the southwest toward Long Acre Lane there are Residential properties that abut up to the edge of the property, and they were developed while the landfilling activities were going on; and he does not believe there was any material discovered there. Mr. Goll stated they delineated the extent of the fill to the east. He showed on the rendering the extent of the landfill. He also noted the locations of the proposed detention basins. Mr. Grenier asked if the landfill goes into the floodplain, and Mr. Goll stated it goes all the way to Brock Creek into the floodplain and he showed the location on the Plan. Mr. Goll stated they are proposing to pull the material away from the grade in a gentler slope and create more floodplain storage at a location he showed on the Plan.

Mr. Grenier asked about water and sewer service for the homes. Mr. Chris Jensen, the civil engineer, was present and he stated they are proposing gravity sewer that would begin on the western portion of the site and the northwest point at a location

he showed on the Plan, and will make its way through the new development and come through an Easement to Schuyler Drive to make the connection. Mr. Grenier asked about the existing residences to the west, and Mr. Jensen stated they are proposing to have a terminal manhole at the right-of-way line on Edgewood Road at a location he showed on the Plan which would allow for future connections to Schuyler Drive.

Mr. Grenier asked Mr. Jensen if he has run any numbers to see if he can get adequate stormwater basins; and Mr. Jensen stated they have, and he showed the proposed locations on the Plan. Ms. Tyler asked if the basins were based on both lots, and Mr. Jensen stated the basins are based on the degree of disturbance and impervious area which is all on Lot 1.

Ms. Blundi stated her biggest concern is protecting the Township in the future, and they have made reference to something in Montgomery County; and she would like to learn what they can do to protect the Township and the future homeowners. She stated she looks forward to hearing what creative solutions the developers can come up with.

Mr. Weiss asked in the over twenty years since the Harris family sold the property from the time DEP closed the landfill up to 2012, how many separate times was the property tested. Mr. Goll stated he completed excavations in 1999, and those were the sixty-seven test pits on the property that he had discussed. He stated in 2003 he completed another eleven test pits on the property. He stated approximately two years ago they completed an additional five test pits on the property. He stated they installed four additional groundwater monitoring wells in addition to the three existing wells. He stated they had videotaped the three existing wells to make sure they still had their integrity which they did so they were sampling the three original DEP wells as well as the new ones that they installed, and they were tested over eight separate quarters for about four to five years. Mr. Weiss asked if there has been any degradation of the property from the very first test to the very last test and has there been a comparative analysis; and Mr. Goll stated they have looked at one data set to the next, and one of the reasons that they have to do multiple quarters of sampling is DEP looks at the eight quarters of sampling to see if there is any potential deviation such as a spike in one of the contaminants. He stated it really has not changed much at all, and the level of contaminants have remained as is.

Ms. Tyler asked who is the owner of the property, and it was noted that Quaker is the owner. Mr. Dugan stated his company is the equitable owner under an Agreement of Sale, and they are the Applicant. Ms. Tyler asked if the property is under any order from DEP and what is the owner of the property required to do under DEP or the EPA with respect to the property. Mr. Goll stated there has never

been any discussion of enforcement, and there is no enforcement action on the property at this point in time; and it is just identified as an un-Permitted landfill. Ms. Tyler asked if that is the result of what was done in 1986. Mr. Goll stated that was when DEP ordered the cessation of filling activities. He stated another enforcement was a co-effort between Quaker and the Township when the Harris family was using gasoline to clean their equipment. Ms. Tyler asked if any fines have been levied against any subsequent owner of the property by DEP or EPA, and Mr. Goll stated they have not.

Mr. Zachary Rubin stated it was stated that the annual maintenance cost would be approximately \$9,900; and if there are thirty-two homes that would be \$310 per homeowner for the HOA to maintain that lot. Mr. Rubin asked if the street will be Dedicated to the Township; and Mr. Murphy stated he feels the intention is that it will be, but that is a decision for the Board of Supervisors to make. Mr. Rubin stated the HOA would probably just do landscaping at the entrance way, etc. and would not be responsible for landscaping the homes, snow removal, trash removal, etc. and the individual homeowners would be responsible for those expenses. Mr. Murphy stated typically today the Township does not accept Dedication of the detention basins so that the detention basins would be with the HOA as well. Mr. Rubin stated he feels a \$300 to \$400 fee is not an unreasonable HOA fee for someone who can afford an \$800,000 home.

Mr. Rubin asked if this developer was involved with the Scammel tract, and Mr. Dugan stated they were. Mr. Rubin asked if they were also originally the developer of the Moon tract, and Mr. Dugan stated they were not. Mr. Rubin asked if that was another Orleans, and Mr. Dugan agreed.

Mr. Bryan McNamara, 1412 Heather Circle, stated they heard earlier from the developer that if they are not allowed the density to come off of the landfill area, they will not go ahead with the project; and he asked what harm this would cause to the Township since it has been sitting that way since 1986 and nothing has happened. Ms. Tyler stated she does not see any harm. Mr. McNamara stated it seems that if they go forward, they would be taking on risk. Mr. McNamara stated the part of Yardley Hunt that “fell apart” was built in 1978/79, and the developer was gone by that time. He stated he does not feel they should entertain this deal. He stated the Quaker Group bought the property knowing that the dump was there and that the liability was there. He stated he does not feel they should take the density from Lot 2 and put it on Lot 1 just so the developer can make a profit. He stated he does not feel there is any harm to the Township with the property sitting the way it is. Mr. McNamara stated he knows people who worked at the trash haulers at the time who were going to be charged \$400 a load if they took materials to Tullytown, and the Harris family was only charging \$25 a load. Mr. McNamara stated he feels there is a lot more in there other than lumber and asphalt. He stated

he feels the Township should have zero liability, and he does not feel they should go forward moving the density from Lot 2 to Lot 1. He stated normally when that is done it is to save large blocks of open space to maintain the character; but in this case it is just to make sure the developers can make a profit, and Quaker Group bought it knowing the risks involved and the Township should not be “bailing them out.”

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated just because someone owns land does not mean that the Township is responsible to help them make money. He stated this is a piece of land that the developer already acknowledged needed to be separated so that the one part that had good land could have homes built on it. He stated they have also acknowledged the fact that a significant portion of the land is not developable. He stated the only reason the Township would take the land credit from the unusable land and give it to the developer for the usable land is to help the owner get a price they think they should get for the property, and it is not the Township’s job to do that. Mr. Costello stated there are standards and codes to help maintain a certain level of what our community is supposed to be like, and it is not to make sure landowners make money. Mr. Costello stated the developer has stated that they will walk away if the Board tells them what they are asking for is not something the Township will accept, and he feels the Board should say that. Mr. Costello also asked if there are many one third acre homes that are selling for \$700,000 to \$800,000 in this Township as he feels the lots seem small for that price.

Mr. Stephen Heinz and Ms. Helen Heinz, 1355 Edgewood Road, were present. Mr. Heinz stated their home is adjacent to this property, and they are very concerned about the remediation of the site in the back which is now Lot 2. He stated it had been used for a long period of time, and they saw the material that was put in there which included washing machines, refrigerators, and even a vehicle. He stated after a period of time, he would suspect that this material would decay and eventually sink; and there are now lesions in the ground where water bubbles out. He stated they have pictures of the discolored water coming out of the hole which could be just rust or could be other things. He stated he has photos of this from the last two years. He stated if they had not been notified just two days ago about this evening’s meeting, they could have put together a video to give to the Supervisors. He stated he is concerned that no matter how they cap this, over the long run water seeps where you would do want it to. He is concerned what will happen in another ten to fifteen years and the water starts bubbling out, and a child could start playing in it and it will become a “crisis situation” which the Township will have to deal with. Mr. Heinz stated in other Municipalities which have more money, they fix the problem and then resell the development; and they could take that land and make it into “something good,” and there will not be any long-term liability. Mr. Heinz stated he would like to see it cleaned completely out. Mr. Heinz stated he feels more investigation needs to be

done, and there are techniques other than just test pits which use sonar and would give the exact depth and show everything that is there. He stated if that kind of test could be run, they could make a more exact estimate of what it would take to remove the offending material and infill it. Mr. Heinz stated “a few test pits and some water holes” for monitoring do not seem to be enough to give us the information we need to make a reasonable decision. Mr. Heinz stated he went to the Planning Commission meeting and brought up some issues; and the choice that was given to the Planning Commission at that time was, “which do you like better,” and they liked the one with less density. He stated he took a “screen capture” of the overall land that included Yardley Hunt and put it on the site, and it takes about twenty houses; and he could make this available to the Board. He stated the developer is saying that they are going to put houses on the site that will cost more but have less land and more liability than Yardley Hunt, and he asked why someone would buy that so he feels this is a bad business decision. Mr. Heinz stated they are going to take a liability and make thirty homeowners bear that liability to keep it right.

Ms. Helen Heinz stated she was upset when Mr. Goll had stated that the landfill itself created the wetlands. She stated according to maps of the Township from the 1860s, there are two historic springs in the woodlands area to the west of the site. She stated they are constant springs which never fail, and they combine on the two adjacent properties and form one stream that flows through the site and feeds into Brock Creek. She stated this property had a wetlands problem when it first came in for development, and the developer was looking at two bridges; and they were going to put houses on the dump, and it was going to be an expensive site to develop and not an easy site to develop even if it were pristine.

Ms. Heinz stated when there are large storms, a raging creek goes through the center of the property. Ms. Heinz stated when Mr. Harris capped the dump, he tried to put the stream that was running through his portion of the property into clay pipes, and he then put dirt over the top of the clay pipes. Ms. Heinz stated two years later there was a major storm, and there was a significant amount of water coming out of the little stream. She stated all of the Yardley Estates detention basins drain into that little stream that feeds into Brock Creek. She stated after the storm the pipes were out of the ground and all over, and the stream bed was uncovered with “Pampers boxes” coming up on the dump side.

Ms. Heinz stated she does want something to happen since she has been living there for thirty years waiting for sewers. She stated the latest Plan still does not get her water and sewer since she is uphill; and in order for her to connect, she would have to put in a force main on her property which would be cost prohibitive. She stated she would like to have neighbors and see the property developed and possibly they could move forward with some kind of agreement with fewer houses. She stated

she would like to see the dump remediated. She stated she feels the Township should take part of the liability over since a large portion of the Township Building materials went into this dump. Mr. Heinz stated at one point the Township was dumping materials from the Municipal Building when the Library was taken out; and they should have some responsibility.

Mr. Murphy stated there is a value judgment that they need to make as to whether they want to leave the condition alone and do nothing with it or whether they want to see something affirmative done. He stated he feels it is unrealistic to think that given the cost that Mr. Goll has estimated, someone will come in and remove all of the Municipal trash that is there. He stated he appreciates Ms. Tyler's view that they should not get any density credit, but he does not understand why someone who has a thirty-eight acre parcel should not be able to get credit for all thirty-eight acres as part of the net site density calculations just because they created a separate lot in anticipation of having it cleaned up as recommended by DEP. Mr. Murphy stated they made it clear that their ability to go forward to do the remediation as recommended by DEP is linked to getting thirty-two home sites. He stated he read all the Minutes from the last fifteen to twenty years, and all the Applications and different proposals have all been between that number and forty lots.

Mr. Murphy stated if there is a sense among a majority of the Board that favors Ms. Tyler's view, he feels they will probably not be able to proceed; however if there is an interest in pursuing the thirty-two Lot Plan that would give them the incentive to continue the conversation with DEP and work through the difficult issues they have to wrestle with, and they need to find a way to do it collectively and cooperatively.

Mr. Grenier stated he is not sure he has a fully-fledged opinion yet. Mr. Grenier stated DEP has seen this testing going on for twenty years and has not had an enforcement action on the property; and he asked if that is due to the fact that there is a continued interaction with DEP in looking for a solution or is it because the property does not look "dirty" enough for them to have an enforcement action. Mr. Goll stated he feels considering what DEP has to deal with on a daily basis throughout the State, this is probably not their highest priority. Mr. Goll stated there is soil on this site that exceeds the cleanup standards that the cap needs to cover. He stated there is Brock Creek with trash hanging into the creek that is essentially vertical. He stated the site has concrete and asphalt that is sticking out of the ground and sometimes a tire or something else comes up. He stated with regard to the wetlands in the middle of the site, he agrees that there is a pipe that runs through that connects the wetlands to Brock Creek that has collapsed and is eroding. He stated he feels this is a non-point source pollution of sediment that goes into Brock Creek. He stated it is not a Super Fund site, but it is also a blight; and it is a property that does not exactly meet the regulatory standards that the State has set

to protect the public health and the environment. He stated from a soil, debris, and Brock Creek standpoint, the property is not doing anything for it; and the solution would at least get rid of a large extent of invasive Phragmites that are on the site and some of the other non-native species that are on the site right now. He stated it would provide a maintenance program that would encourage the introduction of native vegetation and attract wildlife. Mr. Goll stated while they could do nothing and maybe the DEP will not come in and enforce it, they would still have a site that is environmentally damaged.

Mr. Grenier stated he feels they would all like to see the site cleaned up if they could; but at the same time, he is sensitive to what Ms. Tyler has discussed about the density as well as what Mr. Costello stated about one third acre lots and helping the developer make a profit. He stated he is open to discussions provided they consider the stipulations Mr. Lewis has raised.

Mr. Murphy stated he does not feel this developer will proceed if it is less than thirty-two lots, and Mr. Grenier stated he recognizes that is a business decision. Mr. Murphy asked if they should schedule a meeting for a few weeks, and Mr. Lewis stated the developer could speak individually to the Supervisors or speak to two of them as well to get their perspective, but he could not speak to three Supervisors at one time.

Mr. Truelove stated the Board met in Executive Session beginning at 6:00 p.m. and discussed personnel matters involving Township Administration.

#### APPROVAL OF EXTENSIONS - ERIN DEVELOPMENT AND LOWER BUCKS PEDIATRICS/OCTAGON CENTER

Mr. Truelove described for the new Supervisors the purpose of approving Extensions.

Ms. Tyler moved, Mr. Weiss seconded and it was unanimously carried to approve the Extension of Erin Development/Dobry Road Project to June 1, 2018.

Ms. Tyler moved, Mr. Weiss seconded and it was unanimously carried to approve the Extension of Lower Bucks Pediatrics/Octagon Center to June 1, 2018.

## ZONING HEARING BOARD MATTERS

With regard to the Kit Kraeuter Variance request for the property located at 225 Freeman's Farm Way in order to permit restoration of a springhouse, removal of macadam, and construction of a deck and shed resulting in encroachment into wetland buffer, it was agreed to leave the matter to the Zoning Hearing Board.

## ENGINEER'S REPORT

Mr. Pockl stated he had provided his report to Mr. Fedorchak, and Mr. Fedorchak stated he had put it in the Board's informational material. Mr. Pockl stated since the last meeting they have completed the Satterthwaite House structural evaluation and issued it to the Township yesterday. He stated with regard to bridge inspections, there are a total of nine bridge inspections needed. He stated they received the old bridge inspection reports which they have reviewed, and they will schedule the inspections with Public Works and anticipate doing that within the month. He stated they received today the MS4 Pollution Reduction Plan from Mr. Majewski, and they intend to review that within the next month as well. He stated with regard to the Township Road Program, they received the existing Road Program and a tentative schedule of roads to be included in the 2018 Road Program, but they have not yet scheduled visiting each road with Public Works, and they anticipate that happening within the next few weeks.

Mr. Pockl stated they submitted a Solar Grant Funding Program Application for the Community Center and the Township Building on January 19. He stated they are waiting word from DCED and expect that to be forthcoming the end of March.

Mr. Pockl stated there are several development projects that they are reviewing including the Sketch Plan for Fieldstone (Harris Tract), 1685 Dobry Road which is the quadrant Residential that is under review which they expect to complete within the next week, the Widenmeyer Lot Line Change for which they issued a Plan review letter on January 19, Caddis Healthcare Sketch Plan which they understand will be revised before Preliminary Plan submission, and minor Grading Permit reviews for 751 River Road and 1054 Darby Drive.

Mr. Pockl stated there are ongoing construction projects that they are inspecting including the Regency at Yardley for which they are preparing punch lists for Phases 4 through 7 on the north side and inspecting the construction on Phases 1 through 3 on the south side of Regency at Yardley. He stated they anticipate a meeting with a property owner who has expressed some concerns at Scammels Corner which was to take place today, but was postponed. He stated they are working on inspections for the Estates at Sandy Run, and currently the permanent basin has been installed

and three of the eight homes have been completed. He stated they are also inspecting the Oakmont (Moon Nurseries) site, and all fifteen homes are under construction and site improvements are being made. Mr. Pockl stated they also completed a Certificate of Occupancy inspection for 829 Sandy Run Road, and inspected the infiltration trenches that were being installed as part of a Pool Permit for 1081 N Kimbles Road.

#### SUPERVISORS REPORTS

Mr. Lewis stated the February 6 Zoning Hearing Board was postponed to February 20 to accommodate the Appellant's schedule. He stated this case involves an Airbnb operating in the Township. Mr. Lewis stated the Electronic Media Advisory Board met and reviewed a number of issues including the renewal Agreements with Comcast and Verizon and proposed privacy Ordinances for the Township.

Mr. Weiss stated the Trenton Mercer Airport Review Panel did not meet, but they conveyed to him that they understood the latest Court ruling; and are now waiting to see the final Master Plan for the Airport before they decide what to do next. Mr. Weiss stated the Economic Development Committee met, and they are presently putting together the information from the 2017 and 2016 Business Survey.

Mr. Grenier stated the EAC met and discussed a variety of issues; and if anyone is interested in joining the EAC, there are two vacancies. Mr. Grenier stated the Planning Commission met and went over four different Plans. Mr. Grenier stated he and Mr. Weiss attended the Citizens Traffic Commission meeting which was primarily focused on the TPD Study for Makefield Road, and he believes they sent a letter to the Board of Supervisors recommending that the Board allow TPD to move forward with amending the report with the main idea being to study an alternative of changing the speed limit at least for some stretch of Makefield Road to 25 miles per hour and to potentially extend the School Zones and times.

Ms. Tyler stated the Electrical Reliability Committee continues to operate and has been helping some residents with pocket outages; and while they have not had a formal meeting, they have had some e-mail communications with resident concerns which have been addressed by the Committee and PECO.

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There being no further business, Mr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to adjourn the meeting at 11:30 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary