

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – AUGUST 1, 2018

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on August 1, 2018. Mr. Lewis called the meeting to order at 7:30 p.m. and called the Roll.

Those present:

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

Others:                             Kurt Ferguson, Township Manager  
   David Truelove, Township Solicitor  
   Kenneth Coluzzi, Chief of Police

Absent:                             Andrew Pockl, Township Engineer

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road, stated the Township residents and Supervisors are having a problem with regulatory capture with regard to noise at the Trenton-Mercer Airport. He stated he plans to come back at a future meeting to discuss grass roots Democracy.

Mr. Robert Abrams, 652 Teich Drive, commended Chief Coluzzi on the apprehension of a child predator. Mr. Abrams stated he has attended more Supervisors' meeting since January 1 than he has in the thirty-four years he has been a resident because he is not happy. He stated Dr. Weiss printed on Facebook that he was going to take the \$2 million they were getting for the tower and "make \$50,000 per year;" and Mr. Abrams stated he would like to know how he is going to do that. Mr. Abrams stated he would also like to know if the money will go into the General Fund which will become a "slush fund as the Bond fund is." Mr. Abrams stated he had previously asked about the increase for roads in last year's Budget, adding he does not see that anything is being done with the roads compared to what was done last year; and he would like to know if money was taken out of the Budget for roads and put somewhere else. He stated he personally had a \$120 tax increase; and in the thirty-five years that he has lived here, that is the largest tax increase he remembers. He stated he understands some of it was for the Community Center, but not \$120 of it.

Mr. Lewis asked if the Agreement with SBA has been finalized, and Mr. Ferguson stated it has not. Mr. Ferguson stated with regard to the road program, the Township has a thirty-day wait under the Ordinance during which they do background on the selected contractor; and that timeframe just ended so they will be given the Notice to Proceed. He stated they have to provide various documents to the satisfaction of the engineer before they move forward. He stated the total Road Program this year is approximately \$1.3 million with \$300,000 coming in the form of a Grant. He stated the road paving itself will be approximately \$865,000 factoring out some of the other items included in the Road Program. He stated this will be 2.87 miles of road paving this year. He stated with regard to the timing, they are going to have discussions with the contractor about putting Makefield Road and the traffic-calming measures there near the top of the work to be done although he cannot give a guarantee as to their staging plan. He stated he feels that by the time they are there, School will be underway even though they will press them to work beforehand.

Mr. Doug Uhlmann, 206 Arborlea Avenue, advised that last week it was noted in the Courier Times that Elcon was approved by the Pennsylvania DEP for their Phase I siting so the process will be going on to Phase II. Mr. Grenier stated Elcon was deemed administratively complete on their one Application, and they now have the ten-month review period before that Application can be approved or denied. He stated they are going into technical review, and that does not include any Permits related to land development, wetlands, etc. Mr. Grenier stated the EAC is looking into this. Ms. Tyler asked that the EAC be asked to prioritize this and provide the Board with feedback. Mr. Grenier stated they will discuss it at the next EAC meeting. Mr. Lewis stated Elcon had come before the Board previously, but they have not adequately addressed the Board's concerns about the negative externalities from the Plant. He stated the Board addressed their concerns at their March 2, 2016 meeting with Elcon, but Elcon has not come back with responses. Ms. Tyler asked if the Township should send Elcon a letter indicating they would like a response to their concerns from 2016; and Mr. Lewis asked that they wait until the EAC has completed their review so that they can include all of their concerns in the letter. Mr. Grenier stated the DEP review period is ten months; and the EAC meets next week, and they will come back with a timeline when they will come before the Board of Supervisors.

Mr. Tom Will, 389 Trend Road, stated approximately one month ago there was a long discussion about Sandy Run Road still being shut down after eighteen months and a number of alternatives were discussed. He stated those alternatives were not well received. He stated he understood that they were going to have a surveyor run some surveys to determine what makes sense. He asked the status of Sandy Run Road. Mr. Lewis stated they offered two specific proposals – one with a cul-de-sac as a fall back if they could not technically move Sandy Run back onto Edgewood.

Mr. Lewis stated the traffic engineer has been working on the designs. Mr. Truelove stated letters were sent by Mr. Wursta's office to the property owners on either side of Sandy Run Road for access to do the survey work. Mr. Will stated it has been another month and "nothing has happened which is a continuance of things that get brought up, get initiated, but do not follow through." He stated he feels the Supervisors should make a commitment that they are going to have an answer and move ahead by some date. Mr. Lewis stated their intent is to have the traffic engineer back in September to review the final design based on the survey; and at that time the Board of Supervisors would have the ability to make a Motion to place that out to Bid. Mr. Lewis stated they want to make sure they do the job right.

Mr. Will stated the Board heard a lot of public comment and very few people were happy with either one of the alternatives even if the survey passes. He stated the Board needs to take action since the residents who live on Sandy Run Road have been suffering for eighteen months. Mr. Lewis stated they considered over twenty-five different permutations of options to deal with this issue. He stated they invited input from the public and reviewed all the possible options, and they had reviews by two traffic engineers. Mr. Lewis stated they are now down to the final two, and they want to get engineering and final plans on those. Mr. Lewis stated they have not taken this issue lightly and they know that this issue has imposed significant social cost. He stated they are in the middle of litigation with the prior engineering firm. He stated this issue is one of the Board's highest priorities.

Mr. Will asked if there is a path forward on the sewer plans. Mr. Lewis stated the sewer engineer is present this evening and they will discuss this later on the Agenda.

Mr. Will stated two months ago Mr. Lewis told him he would provide him with a total cost of the Senior Center, but he has not received this. He stated this is another example of "not following through." Mr. Lewis stated he did send Mr. Ferguson a memo on this, and Mr. Ferguson stated that is underway right now.

Mr. Rich May, 1270 Creamery Road, stated he understood that there was going to be a discussion of the Snipes property; however, it is not on the Agenda. Mr. Lewis stated it is not, and they published the Agenda on the Website and posted in on Facebook.

Mr. Bill Gerhauser, Olsen Drive, stated at the last meeting he had asked about PECO wires in his neighborhood; and nothing has been done since that time even though PECO indicated the work would be done within two weeks. Mr. Ferguson stated he spoke to Mr. Dorand a few days ago, and he should receive a report from him regarding the final installation. He stated they have identified some other areas as well that they are concerned about. Mr. Ferguson stated once he has information

he will make the Board aware and post it on the Website. Mr. Lewis stated they plan to have PECO attend a Supervisors' meeting, hopefully in September, and he asked Mr. Gerhauser to attend.

Mr. Doug DeMuth, 1735 Jockey's Way, stated he understands that next year the Lease for Macclesfield with Lower Makefield Soccer expires. He asked what the bidding process will be for that Lease and what the timing will be. Mr. Truelove stated bidding has not been done before with YMS. Mr. DeMuth stated it is a public facility, funded by the public; and there may be others who may be interested in the use of that facility. He stated he understands that Lower Makefield Soccer did not pay anything for the Lease; and if it is up next year, it should be up for bid for other people to express an interest in it. Mr. Truelove stated YMS paid for the construction of the entire surface. Mr. DeMuth stated that is "nice;" however, it is still public property. He stated if the Lease is up, there are others who would be interested perhaps in paying for the use of the facility. He stated he would like to know the timing and the process associated with bidding for that site. Mr. Truelove stated it would not necessarily be subject to the bid process. He stated they will discuss it under Other Business this evening for approval if the Board will consider it tonight. He stated there are issues for YMS concerning the removal of the current turf, and they require approval for financing to pay for the new surface.

Mr. DeMuth asked that they put on the Record why it will not be open for bid and will not be available for others to bid on. Mr. DeMuth stated he feels this is something that was taken away from the taxpayers of Lower Makefield.

Mr. Truelove stated if there are other groups who wish to bid on a separate part of Macclesfield for use, he is sure that the Board would consider that as there is other space there that is available. He stated for this particular field, YMS paid for the construction, maintains it, and insures it. Mr. DeMuth asked why there is a Lease and why is it coming up next year. Mr. Truelove stated the Lease expired.

Mr. DeMuth stated Lower Makefield is leasing property that Lower Makefield Township owns, and it should be up for public bidding and available for others to use.

Mr. Lewis stated the agreement that YMS has allows them to renew. Mr. DeMuth asked if it is perpetual, and Mr. Truelove stated there is one renewal for twelve years. Mr. DeMuth stated they are giving them twenty-four years use of this facility for no payment. Mr. Truelove stated YMS paid \$750,000 for the first surface. Mr. DeMuth asked if they paid this to Lower Makefield Township, and Mr. Truelove stated they paid that to build it. Mr. DeMuth stated it is still public property, adding he "does not care what they paid to make nice our property." Mr. Truelove stated it also saved the Township hundreds of thousands of dollars in maintenance fees for not having to have that property be used in a way that would make it unusable over time. Mr. DeMuth stated he would like to see that as there are quite a number of

people who question that especially in light of the Snipes situation and what they are looking at “having jammed down our throats” which is \$3 million to \$4 million worth of upgrades that are clearly for tournament usage for Lower Makefield Soccer and not for other purposes. Mr. DeMuth stated there are many who question what is going on and the “sleight of hand that seems to be taking place.”

Mr. Lewis stated Mr. DeMuth can obtain copies of the original Agreement and the proposed Addendum. Mr. DeMuth stated he would like to see those. He stated while they may have made some upgrades to our public property for their personal use, it is still our property which the taxpayers own. He stated if there is a Lease on it which is coming up, others should have the opportunity to bid on it.

Ms. Blundi asked what sport he is referring to, and Mr. DeMuth stated there are groups that are interested. Ms. Blundi asked the name of the groups since they would want to make sure that they are involved in the process. Mr. DeMuth stated they would like to know what the process is as there is nothing public yet. Ms. Blundi stated if there is a group that wants access to land “to play a game on,” she would like to know who they are so that she can make sure they are including them. Mr. DeMuth stated that is not the issue, and the issue is the Lease associated with Macclesfield and the Lease associated with Lower Makefield Soccer.

Mr. Lewis stated the Township does enter into Leases with others as well; and he noted particularly the Patterson Farm where the property is leased out to a farmer to farm and to the Artists of Yardley, and those Agreements include rent payments and requirements for upkeep as well. He stated they are not necessarily subject to traditional bidding.

Mr. DeMuth asked where he can get a copy of the Lease Agreement for Macclesfield; and Mr. Truelove stated he can e-mail him, and he will forward it to him.

Mr. Ferguson stated with regard to the PECO item discussed earlier, Mr. Dorand had e-mailed him yesterday which he had not yet read and he read into the Record as follows: “After reviewing this issue, PECO has determined that a more extensive electric reliability improvement project is warranted in this area. We are designing that work now; and as soon as we have the final details of the projects, we will be sending a letter to customers in the effected areas that will describe the scope of the work and provide additional information. We will also provide the Township with a copy of that letter. We expect to begin our work on or about August 27. The first phase of the work will be to address the temporary cable and its locations and to make a permanent improvement.”

Mr. Tim Collins, 479 Jenny Drive, stated between Edgewood and Township Line Road going up Stony Hill Road on the Bright Farms side of the roadway, there is a large tree limb that is in jeopardy of blowing over. He stated it has been there for two weeks, and it is going further into the street. He stated they need to get PennDOT involved with this.

Mr. Ron Cancelliere, 1615 Fairfield Road, stated he also was under the mistaken impression that there would be a discussion on Snipes tonight; and he realizes that it is not on the Agenda. He asked if they could be advised the status of the project adding he has seen some activity out there lately. Mr. Lewis stated the activity going on there now is staging for the Water Company project. Mr. Ferguson stated the Water Company did ask for permission to do this as they are improving some water lines. He stated after some brief negotiations, they agreed to provide the Township a Certificate of Insurance and a \$3,000 contribution for use of the property. Mr. Grenier stated the project was replacing the line on Taylorsville between Dolington and Highland.

#### RESCIND AWARD OF BID TO TRIO SITEWORKS LLC FOR HEACOCK FORCE MAIN REPLACEMENT

Mr. Fred Ebert, Sewer engineer, was present and stated they had awarded the Bid on June 6 and proceeded with the construction meeting; however, the contractor was not able to obtain their Bonds. He stated the contractor had fifteen days and had been given over thirty days; but at that point they had no choice but to discuss this with the Authority solicitor, Barbara Kirk, who recommended that the Contract be terminated which it was on July 20. He stated they need to formally rescind this. He added this was the recommendation of the Sewer Authority as well and it was confirmed at their meeting last Thursday.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to rescind the award of the Bid to Trio Siteworks LLC for the Heacock force main replacement in accordance with the recommendation of the Sewer engineer, Mr. Fred Ebert.

#### AWARD OF BID FOR HEACOCK FORCE MAIN REPLACEMENT

Mr. Ebert stated the award would be to the second Bidder, adding that he confirmed that their Bid is still valid, and all their insurances are still valid. He stated this has all been confirmed in writing. He stated they were within less than 1% of the engineer's estimate. Mr. Ebert stated he was concerned whether they could meet the same timeline, and they have committed to beat the timeline proposed by Trio; and contingent upon the Board's award tonight, they have reached out and done

preliminary purchase orders to confirm delivery times. Mr. Ebert stated the Sewer Authority recommendation at their last meeting was to award the Bid to Almedia Hudak, and this would be his recommendation as well according to his letter dated July 27. Mr. Ebert stated it is important that they get the project done this fall.

Mr. Lewis stated the price is slightly higher than the low bidder, and he asked Mr. Ebert to indicate what the Bids were. Mr. Ebert stated the low bidder, which was Trio, was \$287,272.50, and Almedia Hudak is at \$308,677.25. Mr. Ebert stated the engineer's estimate was \$309,105.

Mr. Grenier moved and Ms. Tyler seconded to award the Bid for the Heacock force main replacement to Almedia Hudak Contractors Inc. per the recommendation of our Sewer engineer, Fred Ebert.

Ms. Tyler asked if this is proper, and Mr. Truelove stated it is; and he added that he and Mr. Ebert communicated to make sure Almedia Hudak's numbers were still valid and this was confirmed.

Motion carried unanimously.

#### SEWER STRATEGY DISCUSSION AND MOTION TO FORM AD HOC SEWER SUB COMMITTEE

Mr. Lewis stated questions were raised previously during Public Comment about their sewer strategy. Mr. Ebert stated they are working on a Task Force to be set up; and before they have their first Task Force meeting, they need to do a due diligence package. He stated he was tasked with a series of options – one being that all flows that currently go to the Morrisville Municipal Authority would continue to go there and go to either an upgrade of the existing site or a new site at U. S. Steel. He stated Option 2 would be to convey all flows from Bucks County within Lower Makefield to go to Morrisville. He stated a third option would be all the flows to go to Bucks County Water and Sewer Authority. He stated the fourth option would be to have the flows that currently go to Morrisville including Yardley go to the Lower Bucks Joint Authority.

Mr. Lewis stated with regard to Morrisville one of the major issues has been the estimated construction cost. He stated Morrisville took the initiative and indicated they would get a third party to come out and do the construction cost estimate and they had a number of names, engineers, and contractors. Mr. Ebert stated he came back with two additional contractors for their consideration. Mr. Ebert stated he has not received an update or contacted them in the last two weeks.

Mr. Ebert stated with regard to Bucks County Water and Sewer Authority, in order for them to pull flows from there, we would need to defease all the Bonds; and they are calculating all of those Bond costs and what our approximate buy-out cost would be. Mr. Ebert stated he is also discussing what would be required to obtain the capacity and the timing with DEP. Mr. Ebert stated they are also considering a conceptual route of what it would take to build a pump station before you go into Morrisville and convey all the flows to Bucks County. He stated they are considering where they would connect to the Neshaminy Interceptor, what would be the improvements, and if there are other routes. He stated they also need to consider how they would divert the flows, if Yardley did not want to join with them. He stated they are doing conceptual pricing as well to see if they should look into this further.

Ms. Tyler asked if there is a similar issue with Morrisville with regard to the bonds, and Mr. Ebert stated he understands from Ms. Kirk's research that they would just walk away from the asset. He stated Lower Makefield does not have anything to sell, and we would just walk away from it. Mr. Ebert stated if Morrisville were to go a new site, it would be easy for Lower Makefield to walk away. He stated at the existing site, there is no obligation for Lower Makefield to be there, and they would have the right to sell Lower Makefield's capacity to someone else. Mr. Ebert stated Ms. Kirk also researched the Bucks County Agreements. Ms. Tyler asked Mr. Truelove to provide Ms. Kirk's evaluations to the Board for their review, and Mr. Truelove agreed to do so. Mr. Ebert stated Ms. Kirk provided a summary of all of the Agreements.

Mr. Lewis stated with regard to the Lower Bucks Joint Authority, there was a tour which he was unable to participate in; but he heard that it was informative as to what would be required for Lower Makefield. Mr. Ebert stated he has looked at the route going down the Canal, and they have done a preliminary Pennsylvania Natural Diversity Index Inventory to see if there are any environmental hurdles; and the initial result was that there were not although Clearances will be required. He stated they have not done a preliminary cost of that since they just determined the preliminary route. He stated once they have the information together, they will call for the Committee to meet.

Ms. Tyler stated her concern would be if they take everything to Lower Bucks, in ten years, they would advise them that they need a new Plant; and she asked if they are doing any evaluation of Lower Bucks' capacity. Mr. Ebert stated they are going through upgrades and expansions right now which Lower Bucks is going to do irrespective of Lower Makefield. He stated they would treat Lower Makefield like a retail customer, and Lower Makefield would not have to participate as we do now in Capital improvements. He stated currently we pay sewer rental fees and we pay on the Five-Year Capital Budget for the Capital improvements. Mr. Ebert stated as a

result of that, we pay proportional operational costs. Mr. Ebert stated his understanding of the concept with Lower Bucks is that we would pay more of a retail rate which would be easier to Budget; and while it is a higher rate, we would not have a Capital contribution component. He stated currently Lower Bucks' retail rates are higher than what we are paying at Morrisville or at Bucks County Water and Sewer Authority; however, Bucks County Water and Sewer rates are going to significantly increase as the City of Philadelphia addresses their combined flow issues, and Morrisville will go up as well. Mr. Ebert stated initially it is showing that while Lower Bucks is 30% to 40% higher today, five years in the future they may actually be 20% to 30% lower. He stated there would be the initial "rate shock" from our relatively very low sewer rental rates today; but in the future, we would pay the same rental increases as all the Residential rates. Mr. Ebert stated there will be additional meetings with them in the future. Mr. Ebert stated they want to see how this will impact the residents initially and then moving forward as well as what minimizes our risk in the future.

Mr. Lewis stated they need to know if they would have an equity stake for all the options. Mr. Ebert stated they need to know what would be the cost to do that or if they just want to be a customer and what assurances they have that they would be treated fairly and equitably going forward, and that there will not be a new rate district for Lower Makefield. Mr. Ebert stated they will also have to bring Yardley in at some point since Lower Makefield flows go through Yardley. Mr. Ebert stated while they could separate them with a flow meter, there may be economies of scale if they all went in together. He stated this discussion needs to happen in the very near future.

Mr. Grenier stated he attended the meeting at Lower Bucks. Mr. Grenier stated with regard to some of Mr. Kupersmit's concerns, he asked Mr. Ebert if he has the contact information for DEP who does the water quality sampling and/or the Permitting. Mr. Kupersmit stated it would "not make much sense" to contact them because of "regulatory capture." Mr. Grenier stated in order to set a base line, they could contact them and request their water quality data for our current system. Mr. Ebert noted who is involved in these areas at DEP, and they could get that information.

Mr. Grenier stated at a prior meeting the Board discussed formally setting up the Sewer Sub Committee consisting of two Supervisors, two Sewer Authority members, and staff; and he saw that this was never formalized. Mr. Truelove stated they do not need a Resolution to form an Ad Hoc Committee.

Mr. Grenier moved and Ms. Blundi seconded to form an Ad Hoc Sewer Sub Committee consisting of two Sewer Authority members, two members of the Board of Supervisors plus relevant staff.

Mr. Lewis asked if they need to specify who would be on the Board.

Mr. Grenier moved and Ms. Blundi seconded to amend the Motion to include the two Supervisors being Mr. Lewis and Mr. Grenier, and from the Sewer Authority it would be Scott Ferrante and Dick Gauck and staff as designated by the Township Manager.

Motion as amended carried unanimously.

Mr. Kupersmit stated at the last meeting he thought he heard that the Township revenue with regard to the sewer system was producing a deficit, and it was noted this was incorrect. Ms. Tyler stated they were anticipating Capital expenditures and they were stepping up the Sewer Reserve and they had a 14% increase last year and intend to do 13% this year to start building up the Reserve for the known Capital improvements that will have to be made. Mr. Kupersmit stated they need to come up with a new concept for a plant that addresses the issue of the “superbugs” that are thriving in the plants.

Mr. Robert Abrams stated he feels if they combine with Yardley, their bargaining position will be much better. He stated they have an opportunity to protect the public over a long period of time.

Mr. DeMuth stated he is the newly-appointed member of the Sewer Board, and he feels the engineering groups is doing a “fantastic” job in evaluating all o the options. He stated they are looking at a number of options with the goal to keep the sewer rates as low as possible and give as much clarity and stability over the long term. He stated the work is in process, and they are making good progress.

#### APPROVE AUTHORIZING ADVERTISING CHANGES TO DEFINED CONTRIBUTION PENSION PLAN

Mr. Truelove stated he and Mr. Ferguson were looking at some of the provisions of the retirement funds for non-uniform employees. He stated what is being proposed is a way to correct the way that the defined contribution plan was structured for those employees who are participating to allow for roll overs, include a vesting schedule, and make eligibility provision for participation upon employment. He stated they will go back and make sure that those employees who should have been included in that, were included at the time that their employment started.

Mr. Ferguson stated other than Police officers, every new employee from 2014 on is in a defined contribution plan which is the public sector equivalent of a 401K called a 401 and they are clearing this up so that the Plan in concept matches when a

person begins to vest the same way the Defined Benefit Plan does. He stated the current Contribution Plan has a delay in the start, and it does not match the Defined Benefit Plan. He stated you get State aid for a qualified Pension Plan so for every employee that is not a Police Officer, you get \$3,850 in State Aid with a set of Conditions. He stated for many of our employees, the contribution that the Township makes, we actually get back almost dollar for dollar in State aid. He stated they want to encourage new employees coming on to save for their own retirement, and they want them to start right away.

Ms. Tyler stated at this point they are advertising an Ordinance to change the Ordinance to remove the six-month delay from which new employees are eligible to participate in a Defined Contribution Plan. Mr. Truelove stated it is also to allow roll overs and have a vesting schedule included as well. Mr. Ferguson stated if an employee in the Defined Contribution Plan decides to leave the Township in the first two years, none of the Township's contributions to them would have vested so the Township would recoup all of those contributions for the first two years so there is a built-in protection there for the Township for any new hire.

Dr. Weiss moved and Ms. Tyler seconded to authorize advertising changes to the Defined Contribution Pension Plan.

Mr. Zachary Rubin, 1661 Covington Road, stated he is in opposition to the Ordinance and to the advertisement that could lead to the passage of this Ordinance. He stated he opposes any Defined Contribution Pension Plan versus the Defined Benefit Plan which encourage the stability of a work force and people to stay longer at their jobs because the more years you are in, the more you accrue into the Benefit. Mr. Rubin stated he also believes that any change in benefits should be through collective bargaining. Mr. Rubin stated those hired after January 1, 2012 will be automatically put in this Defined Contribution Plan, and he feels people hired then should be grandfathered into a Defined Benefit Plan as opposed to a Defined Contribution Plan.

Mr. Ferguson stated he did meet with the Union, and they are in favor of the change, since the change is to the benefit of the employees. He stated most Municipalities in Bucks County have converted to Defined Contribution Plans, and they accept those through Collective Bargaining that had a start date; and they kept in old employees and as new employees were hired, they would go into the Defined Contribution Plan. Mr. Ferguson stated he did meet with the Union representatives but added this did not include Police since Police under a different Act must stay in a Defined Benefit Plan.

Mr. Robert Abrams stated he feels Defined Benefit Plans are completely unsustainable and the burden on the taxpayer is “unbelievable.” He stated a Defined Contribution Plan is the right way to go.

Motion carried unanimously.

#### APPROVAL OF GOLF COURSE EQUIPMENT LEASES AND ADOPTION OF RESOLUTIONS

Mr. Truelove stated several Leases were considered for different types of equipment by the Golf Course management company after submitting information to COSTARS, which is a public bidding consortium. The Leases require financing through PNC, and he reviewed the quotes received from COSTARS. Mr. Truelove stated this process has been followed in the past when they replaced other equipment on a periodic basis at the Golf Course.

Mr. Lewis stated the bank in this case, PNC Bank, will require Meeting Minutes certifying that the Board did approve the Leases, that there is a Resolution that they have approved and signed off on, and that the Approval is contingent upon getting Lease Agreements signed and finalized so that the Leases can be executed and the equipment can be purchased.

Ms. Tyler moved and Mr. Grenier seconded to approve the Golf Course equipment Leases and adopt Resolutions authorizing the Golf Course Management Company to enter into said Agreements with regard to COSTAR Bids.

Mr. Truelove stated the amounts are \$59,400, \$169,238, and \$50,876 respectively for various mowers and Course maintenance equipment. He stated there are three different Leases and Resolutions.

Mr. Lewis asked if a predecessor company that his company purchased had done business with PNC in the past, should he recuse himself if they are not currently a customer; and Mr. Truelove stated he does not believe he need to do so.

Motion carried unanimously.

APPROVE ORDINANCE NO. 410 ESTABLISHING CHAPTER 130 – “LODGING FACILITIES, ARTICLE I – SHORT TERM LODGING FACILITIES” OF THE LOWER MAKEFIELD CODE OF ORDINANCES

Mr. Truelove stated this is a Regulatory Ordinance and not a Zoning Ordinance, and the Board has authorized its advertisement at the last meeting. He stated the impetus for this was a particular circumstance, although there were several complaints made about other locations as well, about use of Airbnb and similar-types of facilities. He stated this is something that has been before many different governing bodies for quite some time. Mr. Truelove stated as he noted previously, there have been several Appeals to the Commonwealth Court and one to the Supreme Court on a Zoning Ordinance. He noted there was one decision by our Zoning Hearing Board which did approve a short-term lodging Airbnb-type situation because our current Ordinance, which is true for Ordinances across the Country, was deficient in terms of being able to address these issues. He stated his office was charged with the obligation to determine what was the best way to proceed from a Zoning perspective or a regulatory perspective, and their research indicated after looking at Case Law and other circumstances, that the best way to proceed would be through the Regulatory process. He stated the draft which was advertised involves a Regulatory process to License and inspect facilities to make sure that they meet health, safety, and welfare requirements and also comply with other Township Ordinances and Codes in order to be properly operated. He stated yesterday they provided to the Board a memorandum summarizing the Case Law of the short-term rentals. Mr. Truelove stated they modeled this Ordinance primarily from the City of Bethlehem. He stated there are some others that are on Appeal that are Zoning Ordinances, and they felt that the Regulatory approach was more defensible; although nothing is completely failsafe, they believe this would be more defensible and not be so subject to successful Appeals as some other method.

Dr. Weiss moved and Ms. Blundi seconded to adopt Ordinance #410 Establishing Chapter 130 Lodging Facilities, Article I – Short Term Lodging Facilities of the Lower Makefield Code of Ordinances.

Ms. Tyler stated she is not in favor of the Ordinance, and she feels it is unwise to put an Ordinance in place that they already know is subject to Judicial review. She stated she is troubled that they are enforcing an Ordinance that seems to be targeting a particular homeowner and that the homeowners who have Airbnbs were not notified of this meeting. Ms. Tyler stated she feels the Township has other ways to express the concerns that the residents brought to Board which were noise, parking, and garbage; and there are already Laws and rules on the books that could address that. She stated she finds the mention of jail time in an Ordinance to be Draconian and out of line in this type of Ordinance. Ms. Tyler stated she feels they could look at something for Airbnbs, but she feels this is “rushed,” and we are sure to end up in

litigation. Ms. Tyler stated she feels they should use the existing laws and do something if the Police Chief indicates that there is a health and safety problem. She stated she feels this is an overreach and does not contemplate Constitutional property issues.

Dr. Weiss asked Mr. Truelove if the Township regulates home businesses in the Township; and Mr. Truelove stated he is not sure exactly how that is done except that they are limited as to what kind of activity they can conduct; and that is through Zoning mostly, and what is being discussed is not a Zoning Ordinance. He stated health, safety, and welfare issues are regulated frequently in terms of electrical inspections, Code Enforcement, and property maintenance inspections if neighbors have a problem with the way a property is being maintained to the point where it becomes a public nuisance. He stated the Township has the obligation to enforce this under those circumstances, and Mr. Majewski's office often does that. Mr. Truelove stated while he cannot say that what is proposed will not be subject to legal challenge, he feels it is less likely that it will be subject to a successful legal challenge than if it were a Zoning Ordinance. Mr. Truelove stated while the one incident was the most prominent, there have been several other incidents reported to himself and Mr. Majewski although they were not as frequently reported.

Dr. Weiss stated he looked on AirDNA this morning and he found fifteen Airbnb facilities in the Township right now so it is more than just one house. Dr. Weiss stated there is a hotel in Lower Makefield, and he asked if there are any regulations covering hotels. Mr. Truelove stated most of them are Zoning. He stated hotels are also subject to Department of Health regulations. He stated the types of facilities they are considering with this Ordinance "fall within the cracks" which is a challenge. He stated there is a State Law being considered for some regulation, but it primarily targets tax issues. Mr. Truelove stated most larger institutions are subject to County or State regulations, but the facilities they are discussing tonight would not be and one of the challenges is to determine the role of local Government to regulate these. He stated to the point that there may be Constitutional challenges, that is possible; but he feels the Zoning regulations would cause a bigger challenge since they are actually restricting property rights as opposed to regulating them.

Ms. Tyler requested and was provided a copy of the text of the Ordinance.

Dr. Weiss stated in Philadelphia for long-term rentals you have to get a License to rent, and he asked if the Township has anything like that for long-term rentals. Mr. Truelove stated they do not. Dr. Weiss asked if they could Amend this to make it for all rental properties. Mr. Truelove stated that is possible.

Mr. Grenier stated he feels Ms. Tyler has made good points relative to the general concept of regulating private property rights. He stated he feels the Ordinance is trying to address where someone's property rights turn into them running a Commercial business in a Residential area; and at the same time, as a Commercial business they would have the same responsibilities as any Commercial business would for health, safety, and welfare items. He stated for those properties where it is being turned into a business, he would lean more toward regulating it as a business. Mr. Truelove stated they are trying to strike a balance as to what is available and what they are trying to accomplish.

Ms. Blundi thanked Mr. Truelove for doing the research trying to come up with a thoughtful balanced approach to this new, emerging issue.

Mr. Lewis stated he strongly supports the Ordinance and feels it strikes the right balance of not taking away property rights as they can still have short-term rentals by night provided the owner is on the premises. He stated for those looking to do short-term rentals where they are not on the premises, it would have to be a minimum of seven days which he feels is a reasonable request and allows the Township the ability to inspect the properties to make sure they are safe. He stated this will also not limit the Township's ability to continue enforcement of noise, parking, and other nuisances that they should continue to enforce. He stated they have received a significant number of complaints not just about one property but others as well, and the approach they are taking today is one that is significantly less restrictive than other Municipalities who have chosen the Zoning approach which is outright prohibition. He stated the challenge is to strike the right balance of protecting property rights but also protect homeowners who did not expect that they would be moving near what is essentially a "hotel" but does not have continuous staff on site to monitor the situation and that does not have any of the infrastructure typically associated with a hotel.

Ms. Tyler stated she is concerned that they did not invite the property owners involved adding that Dr. Weiss indicated that there are fifteen houses where there are Airbnbs. Mr. Lewis stated they do not know their names. Ms. Tyler stated this is listed as a Criminal Summary Offense, and they could be imprisoning people. Mr. Truelove stated there are other Ordinances that have that same provision. He stated this would be an extreme penalty, and if you look at the provisions to get to that point there is suspension, revocation, and a Magisterial District Judge would have discretion and they could impose something much less. He noted the Animal Control Officer also has Citations that could carry potential imprisonment as well.

Ms. Tyler asked about enforcement and how they will determine if someone is there for a two-day rental. She asked what authority does the Code Enforcement Officer or Police Department have to question someone. Mr. Truelove stated Administrative

Warrants would permit this. Ms. Tyler asked how long it would take to get an Administrative Warrant, and Mr. Truelove stated it does not take that long if you go to the Magistrate. He stated if you go on line and see that someone is doing this and you have the opportunity to inspect it, that would be the basis for reasonable cause.

Mr. Robert Abrams stated he is concerned about how the money is handled in the Township. He stated the Board was just told that they are opening themselves up to litigation. He stated Mr. Truelove is not working for the Township for free; and there are fifteen families which will band together plus all the others they do not know about as well as a corporation that will back the families and the taxpayers will be charged when Mr. Truelove sends the Township a bill, and he does not feel this is a good use of taxpayer funds. Mr. Abrams stated there are laws, rules, and regulations which the Township and the Police Department should enforce first. He stated if they do not work, they can consider this further. He stated he is opposed to subjecting taxpayers to a criminal record and thousands of dollars in fines. He stated the Township is also then going to pay the Township attorney hundreds of thousands of dollars to defend this when it may not be defensible.

Mr. Lewis stated they had Legislation on the books with regard to B and Bs, and this was originally prosecuted as a violation of the B and B Ordinance; and the Zoning Hearing Board had to make a determination, based on available legal judgment, whether or not to enforce the Ordinance as it was written, and they made a determination that they could not legally do that. Mr. Lewis stated the Board had to consider whether they wanted to address the issue or not. Mr. Lewis stated every decision that the Board makes is subject to litigation.

Mr. Sol Bress, 649 Teich Drive, asked how this would relate to people who want to exchange their houses for a number of days or a week. Mr. Truelove stated this Ordinance relates to someone who rents out their home for consideration. He stated if there were to be a barter situation and you are trading one home for another, he does not feel that would not be related to this Ordinance. Mr. Bress asked how the neighbors would know whether it is a B and B situation or a home exchange. He asked if they should include in the Ordinance that if someone wanted to barter their home in this way that they would have to inform the Township of this. Mr. Truelove stated they may want to consider that in the future as the Ordinance as written does not directly address that, and he would have to consider this further.

Mr. Zachary Rubin stated he is in support of the Ordinance. He stated currently in the Zoning Ordinance there are provisions about boarding houses, and they talk about the specific number of parking spaces required per bedroom. Mr. Rubin stated he does not feel the Ordinance being discussed considers that issue with the parking. He stated if someone had a five-bedroom home and was going to rent it for seven to thirty consecutive days, they could have five cars parked in the streets and

neighborhoods so he feels they should consider some kind of parking regulations. Mr. Truelove stated this Ordinance does incorporate the entire set of Ordinances and Codes within the Township so if there is a provision that might apply, including parking regulations, they would be incorporated.

Mr. Rubin stated there are communities in the Township that have private roads that have not been Dedicated to the Township, and some of these communities have limited parking. He stated if someone were to rent out their home that had four bedrooms, and there were cars there, that could take up four spots that had been delegated to residents of the community as the spots are not numbered; and he feels that is an unfair burden on the people in these communities.

Ms. Tyler asked Mr. Rubin if Makefield Glen residents are permitted to rent out their homes as an Airbnb, and Mr. Rubin stated there is no regulation over that although there are provisions about rentals, but the definition of rental is that it must be a minimum of a one-year Lease.

Mr. Rick Webber, 1801 Makefield, stated he is in support of the Ordinance. He stated without an Ordinance the Township has no control as to how homeowners can use their residences for Commercial purposes. He stated currently even if there are no complaints to the Police, that does not mean that it is a hospitable situation for families, that it is good for the value of the neighborhood, or stopping it from becoming an “hourly hotel, party house, or Commercial where people would go to do their work.” He stated he does not think it is good for the Township to be in a situation where the definition of what can be done in the house is now up to the owner because people will then come in from an investment perspective and feel “Lower Makefield is a good place to turn into a hotel.” He stated they could buy five houses all in a row and turn it into “mega-hotel” if there is not a law. Mr. Webber stated once this is published it will be simpler for people to understand what they are buying and what they can and cannot do with their house.

Mr. Webber stated he does not feel the Police should have to enforce these sorts of laws when neighbors are being put upon. He stated while this has been likened to a “shore community,” at shore communities they hire a lot of summer Police Officers to enforce these types of Ordinances. He stated if he has a problem with his neighbor, he would go and talk to him; and if it was ongoing over time without a response, he would then have a recourse. He stated currently it is someone who is renting the house next to him for twenty-four hours, three hundred sixty-five days a year, and it is a different person every night; and he does not have a recourse. Ms. Tyler asked what the issue would be, and Mr. Webber stated it would be trying to resolve any disputes they may have as neighbors. He stated he does not feel it is the job of the Police to be mediators about his “neighbor annoying him.”

Ms. Tyler asked Mr. Webber what he has experienced that makes him in favor of the Ordinance proposed. Mr. Webber stated he is not present to ask that they pass this law because of the “bothersome he has experienced is so great.” He stated he is in support of this law because he feels the Township has the responsibility to regulate this sort of activity, and it should not be left unregulated. He stated the specifics of the incidents they have had revolve around the dozens of times they have had ten or more cars at the property. He stated there have been bachelor parties where people were up late outside and using the basketball court and playing loud music.

Ms. Tyler stated this would be covered under the Noise Ordinance. Mr. Webber asked if he is supposed to call the Police if his neighbor is playing basketball at night or should he approach his neighbor. Ms. Tyler stated she would try to speak to the neighbor or would call the non-emergency Police number. Mr. Webber stated that would be the case if it was your neighbor, and you knew who they were.

Ms. Tyler stated that is still the remedy – you either call the Police or go speak to them, and this Ordinance does not do anything about that other than incorporate the Ordinance that already exists pertaining to noise. Ms. Tyler stated she feels they already have the framework within the existing laws to address the issues that caused nuisance and annoyance to Mr. Webber’s family and the other residents surrounding these houses.

Motion carried with Ms. Tyler opposed.

## ENGINEER’S REPORT

### Approve Advertisement of the Official Act 537 Sewage Facilities Plan

Mr. Fred Ebert stated they submitted the Act 537 Plan to DEP and received back comments on June 29. He stated he has provided the Board with their responses to those twenty-one comments. He stated DEP is looking for acknowledgement by the Board of Supervisors and documentation of the Bucks County Water and Sewer Authority improvements to the Neshaminy Interceptor because they are required for long-term capacity. Mr. Ebert stated if Bucks County does not comply with those, they could withhold our capacity. Mr. Ebert stated they also wanted him to include the Falls Service area. He stated he had included it as a flow projection because it is totally serviced by the Township of Falls Authority; however, Lower Makefield has the obligation to address it and provide the Capacity Certification which he had not done. He stated he has since reached out to the Township of Falls Authority, and they will provide him with a Certification letter; and they are actually waiting for their 537 Plan to be approved which should hopefully be soon. Mr. Ebert stated DEP is also trying to have consistency between all of the Act 537 Plans. Mr. Ebert stated they also wanted some further documentation of a few items to create a clear paper trail such as including a “no action alternative;” and he has included that.

He stated they also wanted them to indicate that they are going to install the force mains in existing easements, which while it was implied, they wanted it clarified so that there were no questions.

Mr. Ebert stated Lower Makefield has been the only 537 Plan so far that has not required a follow-up meeting by DEP. Mr. Ebert stated he reviewed the draft comments with the Township's Sewer Authority which is in general agreement. He noted that the Sewer Authority solicitor did want to look at the implementation as DEP made them include the Bucks County Water and Sewer's milestones that they are going to do. He stated Ms. Kirk was concerned what would happen if Bucks County Water and Sewer did not do it, and if Lower Makefield would financially have to do it. Mr. Ebert stated if Bucks County does not do it, Lower Makefield will not have capacity; and our Resolution of Adoption specifically says Lower Makefield has to pay its proportionate share but not "step into Bucks County Water and Sewer Authority's shoes."

Mr. Ebert stated if the Board would like to review this further and allow the Authority solicitor to address the implementation question, he would come back on August 15 to have it formally adopted by Resolution. He stated he would definitely want it done on August 15 because it is holding up the Planning Module approval for Matrix.

Mr. Lewis asked if they should have a Motion at this time to publish the Resolution and then adopt it on August 15, and Mr. Ferguson stated he believes they could make a Motion to publish it now with approval on August 15.

Mr. Ferguson stated the Plan and submission will include an updated Connection Management Plan or an allocation with the Connection Management Plan that will outline EDUs possibly being made available for projects moving forward. He asked if there is a Miscellaneous category. Mr. Ebert stated a Miscellaneous category was already put in and approved by DEP. He stated 2016 EDUs are not released until DEP approves the 537 Plan, the Corrective Action Plan, and we sign the Supplemental Agreement. Mr. Ebert stated they can update that as part of this Plan to have additional EDUs put in. He stated he tried to maximize it as he did not want a small developer who comes in to have to wait a year or two. He stated DEP limited him to no more than 10 EDUs per Application; and if he can enlarge that, he would want to do that as it provides more flexibility for the Township. He stated now would be the time to add additional 2016 or 2017 EDUs. Mr. Ferguson stated a lot of times people come in with potential projects, and it would be good if the staff had an understanding of what is available so they can discuss how quickly they may be able to move forward.

Mr. Grenier stated he would to have Ms. Kirk's comments before August 15 on the response letter. Mr. Grenier added that the Sewer Authority went through every comment at their last meeting.

Mr. Lewis stated at this point they would need a Motion to publish the proposed Resolution. Ms. Tyler stated they do not have anything drafted. Mr. Ebert stated he felt it had been an attachment in his e-mail to the Board. Mr. Ferguson stated they could make a Motion to publish it on August 15<sup>th</sup> and then they would have the final approval at their first meeting in September; however, Mr. Ebert stated he would like to be able to submit it to DEP on August 15 so that he is not holding up development. Mr. Lewis stated the Resolution was in the e-mail from Mr. Ebert. Mr. Ebert stated what DEP wants is that the Resolution of Adoption be re-adopted and reference all alternatives of choice including proposed improvements to Bucks County Water and Sewer Authority's Neshaminy Interceptor, the proposed upgrades to the Chanticleer and Brookstone pump stations; and in addition the Resolution must include a commitment to implement the Plan within the time limits established in the implementation schedule.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to advertise the Official Act 537 Sewage Facilities Plan.

#### SOLICITOR'S REPORT

Mr. Truelove stated in general since the last meeting they had communications with the Manager and staff regarding transition and related issues, prepared a proposed Ordinance for publication prior to anticipated enactment at the next meeting, had several meetings with office, attorneys, and staff regarding various ongoing issues, review and discussion of options for the proposed Defined Contribution Plan Ordinance Amendment, litigation work and review on several different matters, reviewed communications from professionals including engineers and others regarding various matters, communications and review regarding different Contracts and other legal documents, communications with the Manager and Board of Supervisor members regarding Meeting Agenda issues, daily review of Right-To-Know Requests and responses where appropriate, and communication with Counsel regarding approval of the PBA MOU and follow up.

#### MANAGER'S REPORT

Mr. Ferguson stated one of the goals he has is that as the Board is contemplating advertising for Ordinances and inevitably voting on those that they have copies of those on line before the meeting so that the Public can see them and to make hard

copies available at the door. Mr. Ferguson stated currently the Finance Department is down one person who is away on maternity leave; and once she returns, and they get caught up, he will have plans that they will start issuing including monthly Treasurer's reports, year-to-date Budget comparisons, and financial reports that he will be offering probably every quarter. He stated another goal he has is that they will begin to invite in the Pension Asset Manager to give an annual or twice a year report on how the Pension is performing and where it is from a percentage allocation point noting it is roughly 80 right now. He stated he hopes the public will find this useful.

Mr. Ferguson stated he met with Penn Community Bank this week. He stated they have been with the Township since 2012. He stated the impetus behind the meeting was to see if they had a willingness to do some things for the Township which they agreed to one of which was to increase our interest rate on the funds that we currently have in the bank from .35% to .5% which will generate approximately \$600 a month more than what we are currently making. He stated they also agreed to eliminate all banking fees we currently pay which runs approximately \$400 a month. He stated he will continue to look for items like this going forward. He stated he will be considering how we finance Capital purchases, how we process Development Applications, and how to communicate with everyone including the public so they are aware of what we are going. He stated Chief Coluzzi has been very helpful.

Ms. Tyler stated when they had changed to Penn Community, they had sent out an RFP; and she asked if it would be worthwhile to do that now. Mr. Ferguson stated he does not feel they need to do that now since the point of his meeting with them was he felt that they could be more competitive; and he gave them some benchmarks he had at other places, and they came around quickly. He stated dealing with the bank has been good for the staff. He stated the branch is close, and we make daily deposits to try to capitalize on interest. He stated especially with them waiving all of the banking fees, he does not feel it is necessary to go out with an RFP. Ms. Tyler thanked Mr. Ferguson for his initiative.

#### APPROVE MANOR CARE OF YARDLEY, LLC FINAL RELEASE OF LETTER OF CREDIT

Mr. Truelove stated he discussed this matter with Mr. Majewski who indicated that all prerequisites for the release of the Letter of Credit have been met.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the Final Release of the Letter of Credit with regard to Manor Care of Yardley, LLC as recommended by the staff.

#### ZONING HEARING BOARD MATTERS

With regard to the John Goodz and Felice Fasano Variance request for the property located at 312 Saly Road in order to permit construction of a shed resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

Ms. Tyler moved, Dr. Weiss seconded and it was unanimously carried that the solicitor participate particularly with regard to compliance with FEMA and floodplain issues that could effect our rating with regard to the Christine and Mark Malaty Variance request for the property located at 667 Nancy Road in order to permit construction of an addition and shed resulting in greater than permitted impervious surface and to be located in the floodplain

With regard to the Heather and Mitch Livingston Variance request for the property located at 8 East School Lane in order to permit construction of an addition resulting in greater than permitted impervious surface, it was agreed to leave the matter to the zoning Hearing Board.

Mr. Truelove stated the Board met in Executive Session beginning at 6:35 p.m. and various issues involving informational items, litigation, Contracts, and Real Estate were discussed.

#### SUPERVISORS REPORTS

Mr. Lewis stated with regard to the Golf Committee they are discussing renewal of the Agreement with the management company going forward which is a Contractual matter. He recommended dining at the Makefield Highlands Grill. He stated Family Fun Day is August 3 at Makefield Highlands, and information is available on the Makefield Highlands Golf Course Facebook page. He also recommended Makefield Highlands as an event venue adding that on Sunday, August 12 a brunch will be held where you can learn more about holding events at Makefield Highlands.

Dr. Weiss stated the Mercer Airport Review Panel met, and they are trying to mitigate the noise, traffic, and expansion at Mercer County Airport. He stated at Veterans Square the new sign has been installed, and he thanked all those who made that a reality as it is a nice addition to the Park. Ms. Tyler particularly thanked Ms. Kathy Kraeck for her dedication.

Mr. Grenier stated while the Planning Commission did not meet, Mr. Majewski asked that he advise the Board of Supervisors that he is currently working on finalizing a submittal to the Bucks County Planning Commission of the Comprehensive Master Plan. He stated Mr. Majewski will follow up with the Bucks County Planning Commission to see when it may be ready for the Board of Supervisors to review at a future meeting. Mr. Grenier stated Park & Recreation hosted a Road Tour of many of the Park & Rec facilities for the Board of Supervisors and some staff. He stated they pointed out some of the successes we are experiencing at several of our facilities and how well they are run as well some areas where we need improvement and items to be considered over the next several months. Mr. Grenier thanked Ms. Tierney, the Park & Rec staff, and the Park & Rec Board for putting the Road Tour together.

Ms. Blundi stated Ms. Tierney has been successful at raising close to \$10,000 to offset the cost of Community Pride Day, and she continues to look for sponsors. Ms. Blundi stated four bands are lined up so far. She stated work has started on the Veterans Day Parade which will be held Saturday, November 10. She stated Special Events is always looking for volunteers to work on these projects. She asked those interested to contact Ms. Tierney.

## OTHER BUSINESS

### Approval of YMS Lease Agreement for Turf Field

Mr. Truelove stated two representatives are present from YMS this evening to discuss the current state of the turf field and the proposal going forward.

Ms. Hillary Moonay, 1085 N. Kimbles and Mr. Michael Hansen, 885 Slate Hill Road were present. Mr. Hansen stated they went out for a competitive procurement for replacement of the turf field which is ten years old and at the end of its useful life. He stated they selected a contractor and entered into a Contract. At this point the first phase of the work has been completed which was removal and disposal for beneficial reuse of the existing surface. He stated the second phase was recently completed which was to level the stone that is there, and they are waiting for an update on replacing the new surface; and they hope it will be done in the next two to three weeks. He stated once that is complete, they will enter into a separate Contract to have the fence replaced and upgraded as it is in disrepair. He stated Opening Day for the season is September 8, and they are looking forward to having an Opening Day ceremony which they will be inviting the Supervisors and others interested to attend.

Mr. Truelove stated YMS is financing this entire turf and fence project on its own, and Mr. Hansen agreed. Mr. Hansen stated in addition to the User Fees that they pay to the Township on a regular basis for use of all the facilities that they use, what they have done over the past ten years is collect money into a Capital Fund of approximately \$600,000 knowing that this project would be happening. He stated they have paid for all the expenses related to the replacement of the turf field and the amenities.

Mr. Truelove asked how the use of the turf field impacts use of the balance of the fields in the Township that would have to be used if they did not have the turf field. Mr. Hansen stated the real benefit of the turf field is that they have a tremendous amount of personnel using the fields under their Permit, and most of their teams train or practice ten months out of the year. He stated the number and condition of the grass fields is not suitable for the amount of training capacity they have. He stated other user groups have access to some of the grass fields at Macclesfield including football so they do not always have access to the grass fields so YMS needs an all-weather surface to be able to get in the amount of training for all the constituents they have. Mr. Hansen stated it is also a good marketing effort for the Club to attract talent and other teams wanting to come in and play and have highly competitive matches to develop our personnel.

Mr. Truelove asked if it is fair to say that the use of the turf field has saved the Township maintenance costs and other responsibilities and that use of the turf field helps save wear and tear of the other fields, and Ms. Moonay stated it is significant.

Mr. Truelove stated there is a Lease Agreement before the Board which would terminate twelve years after its execution, and it would not be automatically renewed and more discussion would be necessary at that time with YMS. Mr. Truelove stated the terms are the same as they have been previously which are to maintain insurance, name the Township an additional insured, and abide by all the necessary Codes and Ordinances of the Township.

Mr. Grenier stated the existing Lease has a stipulation that there is an automatic, one-time renewal for twelve years; and Mr. Truelove agreed. Mr. Truelove added that it is legally binding, and part of the reason was that the burden on the Township's fields at that time was such that this turf field saved the Township a lot of money from the maintenance requirements, and that continues to be the case. Mr. Grenier stated since they are replacing the entirety of the fence, Mr. Majewski should check to make sure that they do not need any additional Permits of any type.

Ms. Tyler asked what will happen to the field when the Lease terminates in twelve years. She asked if they will have to remove the surface and restore it to turf, and Mr. Truelove stated that would depend on what the Board at that time wants to do.

Mr. Lewis stated he feels both Parties could consider that separately from this renewal. Mr. Truelove stated there is a provision included that relates to the removal of the surface. Ms. Moonay stated she feels they would have a discussion at some point as to whether the turf would stay or they would do something else. Mr. Grenier asked if there is a timeline as to when those discussions would start, and Mr. Truelove stated that could happen at any time during the course of the Lease.

Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried to approve the YMS Lease renewal with respect to the turf field at Macclesfield Park.

Mr. DeMuth asked what are the User Fees that Lower Makefield Township Soccer pays to Lower Makefield Township. Ms. Tyler stated Park & Recreation has that breakdown. Mr. Lewis stated it is available on the Website, and the 2018 Budget has this detail for each of the user groups. Mr. Lewis stated they also pay lighting fees. Mr. DeMuth stated the light fee is for their use, and what he is really looking for is what they are paying Lower Makefield Township for the use of public lands. Mr. Lewis noted that many other Municipalities do not charge user fees to youth sports groups. Mr. DeMuth stated the challenge here is that we have given a single user group a 24 year Lease on public lands that others may want to use, and the rest of the public cannot use them. He stated he feels this is a “travesty and terribly unfortunate” that others who may want to use those facilities are barred from doing so because of “extensive Leases, sweetheart deals, and what potentially could be low user fees.”

Mr. Lewis stated while he is not a soccer fan, he does not feel this was a “sweetheart deal.” Mr. Lewis stated the Board also made a decision with respect to the Artists of Yardley which was given a ten-year Lease. Mr. DeMuth stated he is not talking about the Artists of Yardley, rather he is talking about public lands. Mr. Lewis stated it is the same policy question. Mr. DeMuth stated perhaps they should look at all of those. Mr. Lewis stated with respect to Five Mile Woods, there is a renter at the home there. He stated in each of these cases, there was public discussion. He stated in 2007 when the Lease with YMS was developed, people could have questioned why there was a 24 year Lease. Mr. DeMuth stated he was not here at that time. Mr. Lewis stated with regard to Bright Farms which uses a section of the Patterson Farm, they are a private entity which is using a section of Patterson Farm to do hydroponic farming. Mr. Lewis stated in each case the Township entered into a business relationship with either a for-profit entity, a not-for profit entity, an individual, a community group, or a youth sports organization. He stated all of them are subject to what State requires the Township to do. Mr. Lewis stated if he had negotiated the original YMS Agreement, he would not have given them 24 years; however, for YMS to make a very large investment, they had to balance that out. Mr. DeMuth stated they could have made their investment “anywhere” and did not necessarily have to make it at Macclesfield which is a public use facility.

He stated they could go and buy property somewhere and build their fields. He stated that is open to them at any point in time. He stated he understands that they are “sitting on a War chest of something close to \$1 million.” He stated they are paying people to run their organization with “hundred thousand dollar salaries.” He stated he feels some groups could probably provide that same soccer experience at far less cost than “evidently what they are doing” if those public facilities were made available.

Mr. Lewis advised Mr. DeMuth if he wanted to create his own youth soccer group, there is nothing stopping him from doing so. Mr. DeMuth stated there is a 24 year “deal” that is stopping him. Mr. Truelove stated there is other land available. Mr. DeMuth stated this was public land that the Township gave them a “sweetheart deal on.” Ms. Blundi stated this is one field and it is not the entire Macclesfield Park. She stated there is not a 24 year Lease on all of Macclesfield, and this is just one field. Ms. Blundi stated children are playing “shoulder to shoulder” on that field because it is the only field they have access to. Mr. DeMuth stated there are at least eleven fields. Ms. Blundi stated it is the only turf field. Mr. DeMuth stated there “is grass all over the place.” Ms. Blundi stated they are discussing the Lease on the turf field at Macclesfield.

#### APPOINTMENTS

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to appoint Linda Salvati to the Environmental Advisory Council.

There being no further business, Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to adjourn the meeting at 9:50 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary