

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – OCTOBER 3, 2018

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 3, 2018. Mr. Lewis called the meeting to order at 7:35 and called the Roll.

Those present:

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

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

PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B. Wren Song Road, stated he is still working on the “super bugs” problem and health costs. He is working on his lawsuit and will be suing the Township, and it will be served on Mr. Truelove on October 17.

Mr. Charles Berner, 556 Nottingham Drive, stated there is a situation taking place now on Emerald Drive, Scarlett Oak Drive, and Overlook Drive with digging by Comcast. He stated they have started to install “mushrooms” or pedestals which are approximately 2’ high, and they are being installed roughly every third house. on the grassy area between the sidewalk and the curb. He stated he feels this is an endangerment and the snow removal process will be impeded. He stated they are unsightly and dangerous for children who are riding or roller skating on the sidewalk. He stated landscapers and those who mow their own lawns are responsible for that strip of grassy area, and it will necessitate trimming so that the grass does not grow there. Mr. Berner stated he understands there is electric current in these pedestals, and this will present a dangerous situation if they get loose.

Mr. Zachary Rubin, 1661 Covington Road, stated he is the Chairperson of the Electronic Media Advisory Committee. Mr. Rubin stated in 2008 Comcast tried to install seventy-two above-grade pedestals, and at that time the Township Zoning Enforcement Office issued a Cease and Desist. He stated Comcast Appealed that

Cease and Desist and they had a Hearing on October 30, 2008 before the Zoning Hearing Board where Mr. Truelove represented the Township. Mr. Rubin stated at that time, as the Chair of the Electronic Media Advisory Council, he gave Testimony that the pedestals were illegal because they violated Township Ordinance 357. Mr. Rubin stated the Zoning Hearing Board overturned the Cease and Desist and upheld the Appeal. Mr. Rubin stated the Zoning Hearing Board ruled that the Franchise Agreement with Comcast states that all their construction, upgrades, replacements, etc. can be done above, below, or on telephone poles; and the Franchise Agreement superseded the Township Ordinances. Mr. Rubin stated a number of neighborhoods complained, particularly Sandy Run II who came to almost every month to complain that they were concerned about the aesthetics and safety.

Mr. Rubin stated on May 19, 2010 there was a Stipulation Agreement between the Township and Comcast; and in that Stipulation Agreement, which Mr. Truelove wrote, the compromise was that Comcast has to abide by Township Ordinance 357 in negotiation with the Township, and it supersedes the Franchise Agreement. Mr. Rubin read an article from the Yardley News dated May 24, 2010 which stated: "Lower Makefield will now have a stronger role in determining the placement of Comcast cable boxes after approving a new settlement with the company the Board of Supervisors agreed to on May 19. The issue with Comcast, previously Lower Bucks Cablevision, dates back to 1994. The Agreement will give the Township greater ability to reject or influence Comcast's future box placements through an enhanced Permit process which Township solicitor, David Truelove, described as very rigorous Permit requirements. 'I don't know of any other Municipality that has as rigorous oversight as Lower Makefield,' said Truelove, and this is probably as broad in oversight as anyone could hope for in my opinion in the Commonwealth.' "

Mr. Rubin stated he would like to know if Comcast went through our enhanced Permitting regulations for the pedestals that are being put in. He stated Comcast had previously stated that they do not put them on peoples' properties without getting permission, and he does not feel they got that permission. Mr. Rubin stated Verizon has fiber optics which are below ground and it is glass cable, and there are no electronics; however, Comcast is coaxial where they have to have transistors and other types of formulators where there are electronics and they short out when there is water, snow, and rain.

Mr. Rubin asked that the Board ask Mr. Truelove to make sure that Comcast is following our new, enhanced oversight about putting these above-ground pedestals in the neighborhoods.

Mr. Pockl stated he and the Department of Public Works and the Department of Zoning and Planning met last week with Comcast and the contractor who was completing the work. Mr. Pockl stated they explained to Comcast the Permitting process and outlined the fee that was required for Permitting. He stated Comcast provided maps, Plans, and also explained to the Township their construction process for installing the lines and the pedestals.

Mr. Rubin asked Mr. Pockl if he is aware that Ordinance 357 should take precedence according to our Agreement with Comcast and that they should not be above grade. Mr. Pockl stated he would defer to the Zoning and Planning Officer who was present at the meeting. Mr. Rubin asked that Mr. Pockl or the Zoning Enforcement Officers review the Agreement of 2010 and make sure that Comcast follows what was agreed to.

Mr. Lewis asked if they submitted and paid for the Permits; and Mr. Ferguson stated initially they did not, and they were brought in to discuss the length of the repairs and did the calculation as to what that translates to for the fee. He stated they have phased that fee over two years collection with a portion of that fee coming in this year in the amount of approximately \$23,000 and a fee next year of an equivalent amount. Mr. Lewis asked if they made sure that they are meeting Ordinance 357 of the Township Code in terms of placement; and Mr. Ferguson stated he is not aware that Mr. Majewski was ever part of that process to review the Code, and it was a process through the Public Works Director on meeting the provisions of the Road Opening Permit process that they needed to do.

Mr. Lewis stated they should review Ordinance 357 to make sure they are in compliance. Mr. Rubin stated he assumes the Township solicitor has a copy of the Stipulation Agreement and 2010, and he asked that he provide that to the Township Manager and the Township engineer to make sure Comcast is in conformance with the enhanced protections for the residents.

Mr. Lewis asked Mr. Truelove to comment on the status of the Franchise Agreement. Mr. Truelove stated it is still in negotiation, and there is no additional information. Mr. Ferguson stated Lower Makefield participates in the Bucks County Consortium, and he is on that committee, and they are waiting for a red-lined version of the Agreement. He is hopeful he will have it late next week.

Mr. Tim Collins, 479 Jenny Drive, asked Mr. Truelove if they have heard from the FRA regarding the Quiet Zones. Mr. Truelove stated he did speak to Mr. Reis two to three months ago about the distinction between the bells and the horns, and Mr. Reis indicated that the regulations do not regulate bells, but they do regulate horns. Mr. Truelove stated he did send a supplemental letter to Mr. Reis about

the information that Mr. Collins and Mr. White had provided him, but he has not heard from him about that; and he could follow up on that if the Board desires him to do so. Mr. Collins asked how much the Township spent for the Quiet Zones, and Mr. Lewis stated it was \$125,000. Mr. Collins asked how much the State spent for the Quiet Zones, and Mr. Lewis stated it was \$375,000. Mr. Collins stated that totals roughly a half million dollars, and CSX is not compliant. He stated at 8:00 a.m. there was a CSX train that blew its horn from Woodbourne consistently all the way through Edgewood. He stated legally it is supposed to be three longs and one short, and this was constant. He stated they did not get their money's worth for the Quiet Zones.

Mr. Berner stated Comcast is working in areas that are not new developments, and he asked a Comcast supervisor where the Comcast cable was previously; and while the supervisor indicated they were running higher-level cable, Mr. Berner stated he does not understand the necessity for the "mushrooms."

Mr. David White, Gayle Drive, stated last spring a letter was sent to the FRA; and in July, after the letter, the results were horrendous with July being the worst month ever since the implementation of the Quiet Zones. He stated August and September were better; however, they are still worse than they were last spring; and he feels they should follow up. Mr. White stated he understands the statement from the FRA that the ringing of the bells is not part of their definition of Quiet Zones; however, he feels the question needs to be asked that if there is no need to blow the horn, what is the purpose of ringing the bells. He stated they will hear a northbound train blowing the horn, and five minutes later there is a southbound train that does not blow the horn; and he questions the purpose of the northbound train blowing the horn. He stated he feels they need to ask more questions to get a better response so we get value for the money spent.

Ms. Sue Herman, President of Residents for Regional Traffic Solutions, Inc. (RRTS) stated she sent a letter to the Board on September 26 about the Trenton-Mercer Airport requesting that counsel investigate whether New Jersey Executive Order 215 is applicable to our case. She read the letter into the Record which asked the Board for a written sponsor to the letter by October 15, 2018. Ms. Herman stated if the EO is applicable to our case, she asked the Board to pursue this matter and give a timeline for doing so; and if the EO is not applicable, she would ask for an explanation why it is not.

Ms. Donna Doan, 2814 Langhorne-Yardley Road, Langhorne recognized the 100<sup>th</sup> birthday of a local World War II Veteran who resides at Friends Home.

Ms. Doan stated Patterson Farm Preservation flea market will take place this Saturday, October 6 from 8:00 a.m. to 2:00 p.m. at Veterans Square Park.

Information is available at [PattersonFarmPreservation.com](http://PattersonFarmPreservation.com). Ms. Doan stated

on Friday, October 26 they will also be hosting a Meditation for Preservation at the Woodside Chapel from 7:00 p.m. to 9:00 p.m. Part of the proceeds will be donated to preservation. Those interested can sign up at [Rainbows of Healing.com](http://Rainbows of Healing.com)

Ms. Doan stated there is a historic tree marker that is missing from the Patterson Farm, and she asked when this will be replaced. Mr. Grenier stated the Public Works Director is taking care of this, and it will be replaced in a few weeks. Ms. Doan expressed her concern that the pack house wood door was replaced with a metal door. Mr. Ferguson stated the door was rotting, and the Public Works Department was concerned that the nature of the deterioration could cause infiltration of water and weather so they asked about having it replaced, and he signed off on that. Mr. Ferguson stated the door was installed to protect the property. He stated in their review of what was characterized as historic, that did not fall into that category so he authorized the door being changed in order to protect the property. He stated while he understands Ms. Doan may find the door distasteful, their motivation was to get the door replaced as quickly as possible to protect the property.

Ms. Doan stated Patterson Farm Preservation worked on the garage doors at the front of that building, and they restored the wood and painted them. She stated if any questions ever come up like that again, Patterson Farm Preservation is more than happy to have Mr. Hirko make a door as he indicated he would have made a sturdy, wooden door.

#### APPROVAL OF MINTUES

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the Minutes of September 20, 2018 as written.

#### ENGINEER'S REPORT

Mr. Pockl stated they are working on several Capital projects, and the Township road program is ongoing. He stated they are meeting with the contractor tomorrow to review the schedule and the methods for constructing the Oxford Valley Road reconstruction. Mr. Pockl stated currently the work is scheduled to start on Monday of next week, and they are going to stress to the contractor how important it is to maintain access to the Community Center throughout the construction. He stated they anticipate the work to take approximately five to seven days, weather permitting.

Mr. Pockl stated with regard to the Dog Park they are currently reviewing the current Contract with the contractor who constructed the Dog Park. He stated they met with the contractor on site on September 27 to review the scope of the change orders, and they anticipate having a report to the Township by the end of this week.

Mr. Grenier asked if they took down the existing fence yet, and Mr. Pockl stated they had not when he was there on September 27. Mr. Pockl stated he had staked out the location of the new relocation of the fence, and a trench was excavated along that line so that the new fence could be put in.

Mr. Pockl stated the Township MS4 Report was submitted to DEP on September 30, and they updated the Report with a minimum of control measures required. He stated these are items the Township had completed within the past year and a half to address the requirements for our Municipal separate storm sewer system Permit. He stated they are proceeding with the Township pollution reduction plan based on comments received from DEP at a meeting on August 23, and they are proceeding with a mapping of the Township's storm sewer system and location of basins; and they are working with the EAC to provide that map to DEP. Mr. Pockl stated once DEP approves the map, he can proceed with the calculations necessary to determine the required pollutant load reduction that the Township will need to implement over the course of the next Permit cycle which is five years.

Mr. Pockl stated with regard to the Pool complex, they are coordinating with the Park & Recreation Department for site access to complete an assessment of the retaining wall and restrooms at the Pool complex.

Mr. Pockl stated they are providing construction stakeout for the Heacock Road force main that is being administered by Ebert Engineering.

Mr. Pockl stated they have also completed a review of the Final Plan for the Caddis Health Care facility that is scheduled to go before the Planning Commission on Monday. He stated they are currently reviewing cost estimates for the reconstruction of Dobry Road that was submitted as part of that project as well.

Mr. Pockl stated they approved Grading Permits at Towering Oaks Lot 7 and Regency Carriage Homes Lots 6 through 10.

Mr. Pockl stated they are working with Regency at Yardley to determine a new walking path from Big Oak Road back to the Community Center. He stated they are working with Zoning and the HOA to determine that scope of work and schedule.

Mr. Pockl stated they are reviewing As-Built storm sewer information for the Oakmont Development, and they expect to have a review letter completed by next week. He stated they have reviewed a new Building Permit for Lot #5 at the Estates at Sandy Run Road, and there are several comments that have to be addressed prior to issuing the Building Permit. Mr. Pockl stated they met with residents on adjacent properties concerning stormwater run off near the basin area for Scammell's Corner, and they are also looking into a complaint from one of the property owners concerning stormwater run off on their property. He stated they expect to issue their findings next week on that. Mr. Pockl stated they have issued a punch list to the developer of Boxwood Farms, and they are working with the developer to determine a schedule on how the punch list items will be addressed. He stated they are also meeting with the developer of Freeman's Farm tomorrow to make sure they are addressing the final punch list items for that development as well.

Mr. Lewis stated with regard to Regency at Yardley, Mr. Pockl met with them and Mr. Majewski on September 20, and one of the items mentioned was a walking path. Mr. Lewis stated the residents from both Regency North and Regency South would like to have the walking path moved from behind to where the old Oxford Valley Road is in front of Big Oak, and to tie in with that. Mr. Pockl stated currently as part of the approved Plan, it shows a walking path from Renaissance Boulevard through the Matrix Development down to Big Oak Road. He stated it was the preference of the homeowners that they would have better access to the Community Center by providing a path to that Center from Big Oak Road.

Mr. Lewis stated the HOA would have to agree to that, and they are working on a plan that would take the money that was allocated in escrow and hold that until they are ready to build the sidewalk. Mr. Lewis stated they need to make sure that they actually build the sidewalk and Toll Bros. and the HOA may require a Resolution from the Board to accept that. Mr. Ferguson stated they would have to supply an Amended Plan as well which would need to be re-approved and be on record.

Mr. Grenier asked if the RAM Court case impacts that, and Mr. Lewis stated it does not; however, he added there is a third issue that involves RAM, and the residents from the area want to meet with the RAM signatories of the Agreement. Mr. Lewis stated he understands Mr. Majewski has set up a meeting for October 12 with the solicitor, representatives of RAM, Dr. Weiss, and himself.

Mr. Lewis stated Mr. Pockl was involved in an issue with regard to the storm sewers at Oakmont/Moon Nurseries and a resident who was having mud issues a few months ago, and he asked Mr. Pockl if that has been fixed. Mr. Pockl stated currently

they are within the midst of the growing season, and part of the repair that was necessary by Toll Bros. was for them to come out and over seed and re-establish the lawn where there was none. He stated the grass is growing but it is not to a point where he would be comfortable releasing the Escrow funds.

Mr. Grenier asked Mr. Pockl where they are with Patterson for remediation. Mr. Pockl stated he has reached out to his experts who are doing it, and they are in the midst of developing a list of contractors they will reach out to, and he expects that list shortly.

Mr. Zachary Rubin stated he is the vice President of the Makefield Glen Homeowners Association. He stated the bike path on Covington Road runs a loop their his neighborhood. He stated this summer it was repaved; but the bike path loop is circular, and what they repaved was a “horseshoe.” He stated the bike path continues along Heacock for 3/16<sup>th</sup> of a mile which was not touched and is in bad disrepair. Mr. Rubin asked that they finish this project for the 2019 paving season. Mr. Lewis stated they can add it to the list of items when they do their analysis and prioritization. He stated at a future meeting they will discuss the strategy around road repaving and moving away from the twenty-five year plan to provide something with a better assessment to make sure they are paving roads in a more frequent manner. Mr. Lewis stated the Township Manager is working on that.

Mr. Rubin stated his point was the repaving of the Covington bike path loop was supposed to be done this year, and it was not finished. Mr. Pockl stated what Mr. Rubin is referring to is the bike path along Heacock Road, and Mr. Rubin agreed adding that it is part of the Covington loop since it connects one part of Covington Road with the other part. Mr. Pockl stated the schedule for 2018 was the bike path along Covington Road. Mr. Rubin stated he was under the impression that they were going to do the whole thing.

Mr. Ferguson stated he is working with Mr. Pockl and the Public Works Director on something to present to the Board based upon 2019 allocations for road paving and what the priority list of roads will be; and the intention during the Budget process is to outline those as far as ranking, and he will make sure to include what Mr. Rubin has discussed in their review.

Mr. Rubin asked if it not true that in the past the maintenance of bike paths came out of Park & Recreation Budgets and not out of paving or liquid fuels. Mr. Ferguson stated while he does not know whether or not that is true, that would not be a strategy he would pursue. He stated in his opinion the millage for Park & Rec would fall outside of trails and trail maintenance throughout the Township, and he feels that should come from highway maintenance or a line item through

highway maintenance that they would allocate for new trail repairs such as crack sealing, etc. for trails that fell short of paving them outright. He stated that should be a line item they should consider for maintenance moving forward. Mr. Rubin asked that Mr. Ferguson revisit what has been done in the past with Park & Recreation Budgets in terms of maintenance of bike paths.

#### MANAGER'S REPORT

Mr. Ferguson stated he has been busy working on the Budget. He stated his expectation would be that he would provide to the Board an initial presentation which would be a proposed Budget/Manager's recommended Budget; and he would make a formal presentation with Department Directors, the Chief, and staff present to provide details in some areas if the Board is so interested. He stated that would be done the end of this month. He stated looking at the advertised meeting schedule, there are meetings scheduled for November 7<sup>th</sup> and 21<sup>st</sup>, and he would be under the impression that the Board would want to have a separate meeting dedicated to the Budget. He stated he would suggest that a target to pass a Preliminary Budget would be at the November 21<sup>st</sup> meeting. He stated if it is done at that time, the Second Class Township Code requires that Budgets be available for twenty days; and while you can discuss it, you cannot make changes to it during that time. Mr. Ferguson stated the schedule would then allow the Board to approve the Budget on December 19<sup>th</sup>. He stated if they did a proposed Budget presentation on November 1, and the Board wanted to pass a Preliminary Budget on November 7<sup>th</sup> that would give the Board the ability to meet the advertising requirements and approve the Budget on December 5. He added that might be a tight timeframe between an initial presentation and passing a Preliminary Budget.

Mr. Lewis asked if there would be one or two Budget workshops since typically they have had two. Mr. Ferguson stated he would defer to the Board, but the presentation from he and staff to the Board could be done at one meeting. He stated if the Board wants to explore items more intensely, they could have a second Budget workshop. Mr. Ferguson stated the Budget document the Board will be getting this year will be about one tenth of the size of the document that they have been given in previous years. He stated all of the support sheets that made the previous document so enormous will be pared down to schedules that will aggregate information by Department. He stated if there are items that the Board feels should have their own schedule and clarification, that would be easy to do. He stated he will work with Department Heads to reframe how they will talk about the Departments, the hours they work, salaries, overtime, etc. He stated the Board will then be able to measure as they move forward, and the Department Heads will be held to those standards that are in the Budget to manage. He stated they have

rebuilt the framework for Public Works, Park & Rec, the Pool, Codes and Zoning; and he hopes there will be an informed discussion where the Board has insight, and they can discuss the financial plan and it will be an efficient presentation. He stated he would defer to the Board whether they want to have a second Budget meeting prior to a Preliminary Budget consideration although he does not believe that will be necessary.

Mr. Ferguson stated he would like to have the presentation to the Board prior to the first meeting in November which is November 7<sup>th</sup>. Mr. Ferguson stated he would like to have it around that timeframe so the Board would have several weeks before they have to pass the Preliminary Budget. It was suggested that they have the Budget workshop on October 30 at 6:30 p.m. Mr. Ferguson stated he will have packets for the Board at that meeting and packets available for the public as well.

Mr. Lewis stated previously Budget workshop meetings were not televised. Mr. Lewis asked the Board its preference. Ms. Tyler stated in the past they sat around a large table and none of them used microphones Mr. Ferguson stated he would suggest something more formal than that as it is a public meeting, and he feels the microphones would be hooked up and he would present the document with various Department Heads and possibly the Chief present. He stated part of the Budget that will be provided will be a Manager's message that will be a description of what is in the document, a discussion of the numbers, and a description of the Departments for the benefit of the public describing the framework of the Department in terms of people and job responsibilities. He stated he believes there should be the opportunity to ask questions by the Board and possibly by the public since it is a public meeting. Mr. Grenier stated he would like to have it televised.

Dr. Weis moved, Ms. Blundi seconded and it was unanimously carried to televise the Budget workshop.

Mr. Ferguson stated they will advertise this meeting and post it on the Township Website.

#### APPROVE AWARD OF 2018-2019 SNOW PLOWING PROPOSAL

Mr. Ferguson stated the Board had been provided in their packet the list of the contractors and various hourly rates. He stated they use contractors throughout the snow season to supplement the staff. He stated when there is a snow event they have the twelve Public Works employees that are utilized, two employees who work for the Sewer Department, and they also bring in the four maintenance employees from Park & Rec so that there will be eighteen individuals on hand. He stated they supplement them with these contractors to cover the Township.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the snow plow recommendations as outlined by the Township Manager.

#### APPROVAL OF AWARD OF 2018-2019 LEAF COLLECTION BID

Mr. Ferguson stated they received three quotes, and they would intend to use all three companies. He stated those companies bring their truck, trailer, and three individuals. He stated he anticipates the contractors will go eight weeks on the program and that they would be here forty hours a week working on leaves. He stated this would cost \$150,000 for the eight-week program.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the 2018 leaf collection Bids as outlined by the Township Manager.

Mr. Truelove stated the Board met in Executive Session starting at 6:45 p.m. and items of Real Estate, litigation, contracts, and informational items were discussed.

#### SOLICITOR'S REPORT

Mr. Truelove stated his office has drafted Ordinances, reviewed Right-to-Know requests and helped staff prepare responses, and reviewed documents related to same. He stated he has prepared Discovery Responses for current litigation and had communications regarding possible Eminent Domain issues. He stated he has reviewed and drafted Collective Bargaining Agreements which were submitted to Counsel for the Union to review. Mr. Truelove stated he has had communications with the Board of Supervisors and Administration regarding various meetings and related issues. He stated he has had communications and reviews regarding issues and concerns pertaining to the Pennsbury School District. He stated his office has attended Planning Commission meetings, reviewed Zoning Hearing Board Appeals, and reviewed information regarding various sewer issues, and attended the Sewer Authority meetings. Mr. Truelove stated an issue related to the Sewer Authority was a notice sent to the Bond company for Trio Sitework's failure to comply with specifics when they were granted the award for the Heacock pump station. Mr. Truelove stated there were also communications regarding finalizing the SBA Lease transactions and communications regarding short-term lodging issues, as well as review and analyzing Land Development Applications and documentation, and communication regarding lien enforcement.

APPROVE ADOPTION OF ORDINANCE NO. 413 AMENDING CHAPTER 178  
SUBDIVISION AND LAND DEVELOPMENT, SECTIONS 11, 12, 19, AND 23

APPROVE ADOPTION OF ORDINANCE NO. 414 AMENDING TOWNSHIP CODE  
CHAPTER 200, SECTIONS 69.A.(14), 70, 78.e, AND 105

Mr. Truelove stated they have two Ordinances being considered for adoption this evening, and these were discussed in detail previously by Mr. Majewski. He stated in the SALDO Ordinance the specific items being discussed have to do with some definitional changes, and they expand and clarify notification requirements for distances for notification including for Planning Commission matters. He stated some of the terms that are defined and clarified include the terms “abutting” and “adjoining.”

Mr. Truelove stated with regard to the Zoning Code there are proposed Amendments that relate to some of the Zoning Applications as there were some Applications for Variances for fences in buffers and there would now be ways to avoid those so that a Variance would not be required if this were passed. He stated there were also situations where Variances had been requested for fence heights if they have two front yards and also for pool fences. Mr. Truelove stated the purpose of these Amendments is to reduce the number of Zoning Variance Applications and facilitate the ability of some of the residents not to have to go through that process which would save the residents time and money. He added that it would also save the Township staff time as well. Mr. Truelove stated it is also to increase the expiration period for Special Exceptions and Variances in order to give residents additional time once they have their approvals so that they do not expire and make them have to come back if there is a reason they are not able to perform the work in the time that is allotted.

Mr. Grenier stated the planning Commission voted unanimously to recommend approval.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve Ordinance No. 413, an Ordinance of the Township of Lower Makefield, Bucks County, Pennsylvania, amending Chapter 178 – “Subdivision and Land Development,” Section 11 – “Definitions,” Section 12 – “Requirements for Review,” Section 19 – “Submission,” and Section 23 – “Submission” to add and insert the definitions of the terms “abutting” and “adjoining” and to revise and clarify certain Notice provisions under the Subdivision and Land Development Ordinance.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve Ordinance #414 an Ordinance of the Township of Lower Makefield, Bucks County, Pennsylvania, amending the Township Code Chapter 200 – “Zoning,” Section 200-69.A.(14) – “Residential Accessory Buildings, Structures, and Fences” to modify the prohibition of fences within a buffer easement and the height and setback for a fence on a corner Lot, Section 200-70 – “Private Swimming Pools” to modify fence enclosure requirements to meet the Pennsylvania Uniform Construction Code, Section 200-78.E – “Design Standards” to modify handicapped parking spaces to meet ADA standards and Section 200-105 – “Expiration of Special Exceptions and Variances” to extend the expiration to be two years from the date of authorization.

#### DISCUSSION REGARDING ORDINANCE TO ADDRESS VACANT PROPERTIES

Mr. Truelove stated at the last meeting the Board authorized for advertisement the Property Maintenance Code update to utilize the 2018 International Property Maintenance Code instead of the currently used 1993 BOCA Property Maintenance Code. Mr. Truelove stated Mr. Majewski had previously discussed this with the Board. He stated the purpose for this is to bring the Township more current.

Mr. Truelove stated there has also been a request to consider a Vacant Properties Ordinance as well; and while this relates to the Property Maintenance Code, it would be a supplement and more specific. Mr. Truelove stated over the years and especially during the Recession, there were a number of homes that became vacant; and as a result the grass was overgrown and upkeep would not be maintained, and many properties became eyesores. Mr. Truelove stated neighbors were concerned because of their concern that their own property values might be effected and other issues. Mr. Truelove stated other Municipalities have enacted Ordinances like this in the past, and it was felt that there should be a process by which those properties could be identified and those responsible for the maintenance issues could be regulated; and if they are not corrected, the properties would be liened in a way that would allow the Township to do some “self help” and also assist other residents in assuring that their concerns about property values, vermin, insects, etc. would not become a problem.

Mr. Truelove stated the Board was provided a proposed draft, and he feels it will probably require minor changes. He stated conceptually it is based upon the Neighborhood Blight Reclamation Revitalization Act which is a State law. He reviewed the various Articles. Mr. Truelove stated they hope this issue would not be something that is widespread; however, it is something that if the Board chooses, it would allow them to address particular circumstances.

Mr. Ferguson stated they have had discussions with Mr. Majewski and Mr. Kirk regarding the general parameters Mr. Truelove is discussing, although Mr. Kirk and Mr. Majewski have not yet reviewed this proposed Ordinance. Mr. Ferguson stated he wants to have this worded in such a way that it will accomplish what the Board wants to accomplish and that it can be enforced and monitored. Mr. Ferguson stated by the next Board meeting, they will probably provide comments; and the Board will then know that they are comfortable from an enforcement perspective.

Mr. Lewis stated tonight is just the beginning of the discussion. He stated in general the Ordinance is designed to eliminate the practice of demolition by neglect. Mr. Lewis noted particularly Scammell's Corner which was one of the twenty most important things to see in Bucks County in 1982; however, it is no longer that. He stated this Ordinance is trying to take prompt corrective action before properties go into such a state of disrepair that you end up in a situation where there is either a desire to demolish them or leave them as eyesores. He stated it also helps when there are circumstances where there is a significant economic downturn, and there are residents who cannot afford to stay in their home because of a foreclosure; and this would give the Township the tools to make sure that the property is kept in a safe and sanitary condition so that there are not negative externalities on other property owners. Mr. Lewis stated the State Legislature has provided certain tools through Act 90. He stated he feels this Ordinance will give the Township the ability to address these issues. Mr. Lewis stated he would like those in the community to look at this and provide their comments as well.

Mr. Ferguson stated his plan would be to put any draft the Board is considering for advertisement on the Website for review; and when they have this on the Agenda, the draft would be provided to the public at the meeting so that the public has access to it. He stated he does not feel they are at that point yet since it has not yet been reviewed by the Township staff.

Ms. Tyler stated she would like to know from the staff and Mr. Truelove if this would apply to the Historic District or do the regulations from the Historic Overlay apply. She stated she would also like to know if this would apply to Township properties. Ms. Tyler stated she would also like to know that if they do enact something like this, does the Township have to undertake the maintenance themselves and charge back and lien the properties.

Mr. Truelove asked that those questions and any other questions other Supervisors might have be put in an e-mail and sent to him to put together, and those could be provided to the staff. Mr. Ferguson stated he feels the Township could take a more active role in something like grass cutting since that is a manageable cost; and the Township could cut the grass and lien the property for that expense; however, he does not feel the Township was anticipating getting into the demolition/rehab

business where the Township would front the cost with the idea that the Township would assume a \$100,000 or \$150,000 cost and then lien a property that is in foreclosure. He stated the idea was to keep a tracking mechanism as to who is in possession of the house, and the Township has a means by which to hold that entity accountable in some way. Mr. Truelove stated he agrees with Mr. Ferguson and that would be consistent with the State Statute.

Ms. Tyler stated she will also include in her e-mail another question which would be whether or not this is redundant and are there other existing Ordinances that would address this and whether they should be repealing something. Mr. Ferguson stated the original thought was that with the updated Property Maintenance Code, they wanted staff and Mr. Truelove's office to discuss where there were gaps in the Property Maintenance Code that they could fill. Mr. Ferguson stated he does not believe what they are proposing will be redundant, but he agrees with Ms. Tyler that they need to check on that.

Mr. Grenier stated he would also like them to check to make sure that there are not any conflicts. He stated he would also like to know what the additional costs for implementation might be to the Township and potential costs to the residents if they get "in the program." He stated he would also like to know how enforceable it is and what flexibility it allows the Township relative to working with landowners for compliance purposes.

Mr. Ferguson stated regardless of what it says, he feels the Ordinance can be as flexible as he directs staff to be. He stated they want to be able to work with people who are well intentioned and moving onto repairing their property or dealing with items that are outlined in the Property Maintenance Code. He stated they want to be flexible and patient with people as long as they are making measureable progress to get their property in a suitable state. Mr. Grenier stated if that is not already reflected, he would like to see that in there. Mr. Lewis stated there are specific carve-outs. Ms. Tyler stated she does feel there is a lot of flexibility in there.

Mr. Grenier stated he would also like to see that the Township has discretion but he does not want a situation where someone could take the Township to Court using our ability to have discretion. Mr. Truelove stated they would not want the Township to be considered arbitrary and capricious. Mr. Grenier asked if this applies only to private residences; and Mr. Truelove stated he feels it would potentially apply all over the Township, and he feels they would have to make it that way to be legal and Constitutional. Mr. Truelove stated he will look at the enabling legislation specifically to that. He stated he believes it is directed more toward residential, but he does not feel it is exclusive to residential. Mr. Grenier asked if this would apply to Township-owned properties; and if so, he would like to see what that means for the Township.

Ms. Tyler asked what this proposed Ordinance has been mirrored off of, and Mr. Truelove stated State law. Ms. Tyler asked Mr. Truelove if this has been challenged, and Mr. Truelove stated it has not that he is aware of.

Dr. Weiss stated he believes that Bristol Township has a similar Ordinance on the books that has been successful, and they could contact them. Mr. Truelove agreed to do so, and Mr. Ferguson stated he will have the staff do that as well.

Mr. Kupersmit stated what they are talking about is affordable housing and 40% of the people have been priced out of the market. Mr. Kupersmit asked how many of these properties exist and where are they located. Mr. Lewis stated there are properties that are abandoned and vacant within the Township. He stated none of this applies at all to the affordability of housing; and if anything it would have a moderately stimulative price effect on the value of the housing stock within Lower Makefield Township so it would probably actually increase the value of Lower Makefield homes by reducing the number of vacant properties and also requiring prompt corrective action. Mr. Kupersmit expressed his concerns with affordable housing in the Country.

#### APPROVAL OF ADOPTION OF RESOLUTION NO. 2375 AUTHORIZING GRANT OF AN EASEMENT FOR TELECOMMUNICATION USE

Mr. Truelove stated a few months ago the Board authorized entering into finalizing an Easement Agreement with SBA for the tower behind the Township Building for a price of \$2,020,000 which was negotiated by Mr. Fedorchak and Mr. Duffy of his office who also drafted the necessary documents.

Mr. Truelove stated in order to finalize this, the Board needs to pass this Resolution which recognizes the process by which the transaction can be accomplished. He stated if the Resolution is passed this evening, documents can be signed by Mr. Lewis as the Chairman, and they anticipate that a Settlement could occur within the next few weeks, and the check issued to the Township.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve Resolution No. 2375 a Resolution of the Township of Lower Makefield, Bucks County, Pennsylvania, authorizing the grant of an Easement for telecommunication use on a portion of certain real property owned by the Township and further authorizing the execution of an Easement Agreement and related documentation to effectuate the grant of said Easement.

APPROVAL OF EXTENSION FOR DEDICATION OF BROOKSHIRE 1, BROOKSHIRE 2, AND TROILO TRACT (BROOKSHIRE 3)

Mr. Truelove stated originally they had on the Agenda the approval of the Dedication for Brookshire I, 2, and 3; but there are still some issues that have to be addressed which could not be finalized before tonight's meeting. He noted specifically some concerns by the Homeowners Association having to do with landscaping and tree replacement. He stated Mr. Pockl will be having a discussion with the engineer for the HOA this week, and hopefully all other issues will be resolved and finalized as to which basins will be Dedicated, and which are going to be reserved. Mr. Truelove stated information has been submitted to his office by the HOA's attorney. Mr. Truelove stated he anticipates that this will be on the Agenda for Dedication on October 17.

Ms. Tyler moved and Mr. Grenier seconded to approve Extension of Dedication for Brookshire I, Brookshire 2, and Brookshire 3 (Troilo Tract) to October 31, 2018.

Mr. Joe Barone, 2265 Jase Drive, Newtown, stated he is the President of the Homeowners Association for Brookshire. He stated they need clarification around what gets conveyed to the Homeowners Association which has been an outstanding request for multiple months. Mr. Truelove stated he understands that would include which basins are to be Dedicated. Mr. Barone stated it would be basins and common space. Mr. Barone stated their attorney sent this request to Mr. Truelove to get this clarified, and they would appreciate a response. Mr. Barone stated they are also not sure, nor is Mr. Majewski, about the Basin Maintenance Fund Fee and whether or not that has been paid by Orleans for each of the phases of development; and they want to make sure that the Township and/or the HOA, if any of the basins are conveyed to the HOA, are made whole and that there is clarity and confirmation of the Basin Maintenance Fees being paid. Mr. Barone stated with regard to the trees, the HOA is in the process of getting some new proposals that will fit within the Budget now that Mr. Pockl and his team have helped them formulate the amount. He stated he is not sure that they will be submitted and approved by the Supervisors in time for the October 31 Dedication. He stated the HOA is doing their best to work with the landscaper that they have secured through a bidding process and have them come out and give them new Plans that will fit within the budgeted amount. He stated Mr. Pockl has been very helpful explaining the process.

Mr. Ferguson stated provided everything is in order, they would consider Dedication at the next Board meeting which would be October 17; and even if everything is not completed, they could have items in there that are essentially "will comply" and would have to be provided as part of the process which would not necessarily hold up the Board from approving Dedication.

Mr. Truelove advised Mr. Barone that he will discuss this with the other attorneys to make sure that these items discussed by Mr. Barone are considered. He stated he will also make sure Mr. Pockl and Mr. Majewski are included in the e-mail.

Motion carried unanimously.

#### ZONING HEARING BOARD MATTERS

With regard to the J & J Landscape Services Inc. Variance request for the property i/n/o Reis and located at 1145 Quarry Commons Drive in order to permit expansion of a patio resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Rebecca Cecchine Variance request for the property located at 9 Manor Lane North in order to permit construction of a shed within the side yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

#### SUPERVISORS' REPORTS

Mr. Lewis stated the Sub-Committee of the Golf Committee has been working on strategies to improve food and beverage revenue, and they met this evening with the Golf Course management. Mr. Lewis stated the Electronic Media Advisory Board met last week and received a resident complaint about billing practices of Verizon, and the Electronic Media Advisory Board provided that complaint to Verizon and has asked for review under out Franchise Agreement; and it is currently being researched.

Dr. Weiss stated the Economic Development Commission met on September 25, and they wish to have the Board of Supervisors review their purpose and hopefully develop a new charter for the Committee so they may move forward and be more productive to the Township.

Dr. Weiss stated the Airport Review Panel met on September 27. He stated as noted by Ms. Herman earlier during Public Comment, they would like clarification on New Jersey's Executive Order 215, and if it applies in this case. Mr. Grenier asked if it would be appropriate for the Board to make a Motion to ask the Township solicitor to look into that Executive Order, and Dr. Weiss stated coming from the Committee he feels they can just ask him to do so. Mr. Grenier stated he understands Mr. Truelove has partners in New Jersey and asked if he would be comfortable with that; and Mr. Truelove stated he could look into that. Mr. Grenier stated they are

directing the Township solicitor to review New Jersey's Executive Order 215 of 1993 entitled "Environmental Assessment" with respect to its application to the current Trenton-Mercer Airport expansion project.

Mr. Truelove stated he had a conversation a few weeks ago with Barbara Lichman who is the outside counsel, and she believes the timeframe for any kind of affirmative action on the Township's part if it is desired probably will not occur until at least November. He stated she is monitoring the situation as he is; and in the meantime, he will look at the Executive Order as well.

Dr. Weiss stated there was a newspaper article which was discussed at the Committee meeting, and the engineering firm was awarded a \$4.4 million contract to go forward with the Plans for the terminal which is one of the reasons why they are looking into the Executive Order. Dr. Weiss stated questions were also asked about possible infringement on the State Canal Park, and the DCNR may have some influence over things since the noise may impact the State Canal Park. He asked that someone from the staff look into this to get clarification. Dr. Weiss stated there was also discussion about Part 150 which is the noise abatement section of the FAA regulations, and the Committee asked if we could have a request to the FAA to see if that has gone through.

Mr. Grenier stated the newspaper article indicated that Mercer County will have a meeting open to the public on October 23 to get input on the Environmental Assessment, and it is scheduled for 7 p.m. to 9 p.m. at the Element Hotel, 1000 Sam Weinroth Road, East in Ewing. Dr. Weiss stated members of the Review Panel will be there as well as BRRAM and Ewing Quiet Skies. Dr. Weiss stated anyone else interested in attending could contact the Chairman of the Review Panel or the Chairman of BRRAM.

Mr. Grenier stated the Environmental Advisory Council had provided information to the Township engineer in support of the MS4 document. Mr. Grenier stated the Sewer Authority and Sewer Sub-Committee met and the Sub-Committee reviewed the re-build option of the current plant with the Township Sewer engineer. He stated the Sewer Authority reviewed various plans for upcoming projects, and they are also reviewing a possible revised Grease Trap Ordinance. Mr. Grenier stated the Planning Commission recommended approval of three Amendments which will be coming before the Board of Supervisors.

Ms. Tyler stated they had a successful Roll and Stroll sponsored by the Disability Advisory Board, and this has become an annual event.

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APPOINTMENTS TO BOARDS AND COMMISSIONS

Ms. Blundi moved, Ms. Tyler seconded and it was unanimously carried to re-appoint Dan Bankoske to the Farmland Preservation Corporation.

There being no further business, Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to adjourn the meeting at 9:25 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary