

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – OCTOBER 17, 2018

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 17, 2018. Mr. Lewis called the meeting to order at 7:35 p.m. 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

Ms. Sue Herman, President of Residents for Regional Traffic Solutions, Inc. (RRTS), stated the Board of Supervisors has received an October 15 letter from RRTS regarding Trenton-Mercer Airport where they requested preparation and action prior to the October 23 Mercer County Public Scoping meeting that is for construction of a proposed passenger terminal. Ms. Herman asked the Board to elaborate on a timing regarding New Jersey Executive Order 215 and whether it is applicable to our case.

Mr. Truelove stated they did research on this, and it was determined that the Executive Order does not apply in this circumstance since the expansion of the Trenton Mercer Airport is not a State project or the recipient of State funds; and they are therefore not required to follow EO 215. He stated they must still follow Federal regulations which may require the Environmental Study, and they are still monitoring that. He stated Ms. Lichman, the outside attorney who was retained, had indicated about a month and a half ago that in November there may be more of an opportunity to deal with the environmental issues through Federal oversight. Mr. Truelove stated he can provide the research they did with Ms. Herman, and Mr. Herman stated she would like to have that.

Ms. Herman stated on October 5 stakeholders received an e-mail from the Airport's engineers entitled "Notification of Public Scoping Meeting – Trenton Mercer Airport Terminal Environmental Assessment." She stated the Environmental Assessment that Mercer County is preparing for the meeting is insufficient. She stated the Airport has been incrementally expanding for well over twenty plus years "under the radar screen" as a way to avoid conducting an Environmental Impact Statement. Ms. Herman stated the EIS that the Board of Supervisors should demand would be a cumulative one that measures the cumulative effects of the improvements at the Airport that have been done incrementally over the past twenty years plus the improvements of the current Master Plan. She stated it should study beyond the area adjacent to the Airport and include all other effected areas in New Jersey and Pennsylvania. She stated it should also consider changes to the character and reputation of our community and consider quality of life due to noise levels. She stated it should also consider health and safety within our community due to air, water, land, and noise pollution, vibration damage, disruptions to sleep, and disruptions to School activities. She stated it should consider the economic impact on our tax base in terms of property values. She stated it should also consider the negative environmental impact on our ecosystems including the Delaware River, the Pennsylvania and Raritan Canals, wildlife, and farmland. She stated it should also consider the impacts on Mercer residents, mostly the economically disadvantaged in Ewing who are losing their homes as they are being purchased by the Airport and their trees are being cut down for the expansion.

Ms. Herman asked that the Board of Supervisors attend the Public Hearing on October 23 and deliver verbal comments and also submit written comments to the facilitators of the meeting on behalf of the entire Township and its residents. She stated the Board of Supervisors should demand that a cumulative EIS be done as she outlined earlier and also address the other pertinent issues outlined in Exhibits 1 and 2 the letter that RRTS sent in their letter to the Board dated October 15.

Ms. Herman stated RRTS also wants to bring to the Board's attention a legal document from a BRRAM legal case that was brought in 2006.

Mr. Lewis advised Ms. Herman that she is at the three minute time limit for Public Comment. Ms. Herman stated she will do the best that she can to finish noting that they feel that since the air traffic will be increased at least five times over what it is today and there are already many neighborhoods in jeopardy, she hopes she will be given a few more minutes.

Ms. Herman asked that the Board reference a June 9, 2008 FAA document, "Order Withdrawing the FONSI record decision for the TTN Airport terminal replacement program." Ms. Herman stated the FONSI was withdrawn because the Airport was no longer going to expand the terminal, and she added that Footnote #3 clearly

references that if Build Alternative 2, which was expanding the terminal to four gates, revealed that Alternative would likely cause sufficient noise impact, that would require the preparation of an Environmental Impact Statement as outlined in the original lawsuit to include New Jersey and Pennsylvania. Ms. Herman asked that counsel look into this document and prepare a document that includes it for submission at the October 23 meeting. Ms. Herman provided a copy of this to the Chair this evening.

Mr. Lewis stated he understands that Dr. Weiss will be representing the Board of Supervisors at that meeting as will a representative from State Representative Warren's office. Ms. Herman asked if Dr. Weiss will be prepared to give oral comments and submit written comments as she has requested, and Dr. Weiss stated if there is an opportunity for him to do something constructive he will address the Freeholders or whoever is conducting the meeting. Ms. Herman stated this is the only opportunity to address them both verbally and in written comment form.

Ms. Herman was continuing to speak when Mr. Lewis advised that she had far exceed the allotted time. Ms. Herman stated there are neighborhoods that do not feel that Lower Makefield "is such a great place to live right now," and she would ask for another two minutes of time to finish her comments. Mr. Lewis advised Ms. Herman that she has the right to send the Board e-mails. He stated she had previously asked about a legal review of the Executive Order which they did. Mr. Lewis reiterated that Dr. Weiss will be at the upcoming meeting, and he feels this is better served at the Airport Review Committee meeting. Ms. Herman suggested that Mr. Lewis attend some of those meetings, and then he might "reassess his comment" because they do not feel they have the support they need as a Board at those meetings which is very disappointing and "extremely worrisome." She stated they are here tonight to help "coach them" into what it takes to take care of Lower Makefield given the fact that the Airport expansion has been happening unchecked for more than twenty plus years. She stated Mr. Lewis does not seem to see the need to give her an extra three minutes or even have it on the Agenda this evening as an Agenda item.

Mr. Grenier asked if Ms. Lichman has ever addressed the concept of segmentation versus cumulative impacts at the Airport, and Mr. Truelove stated he does not recall this although he feels it has been referenced as part of the overall review but not broken down that specifically. Mr. Grenier stated he would be interested in that.

Mr. Don Wilcox, 81 N. Delaware Avenue, stated he is on the Board of BRRAM, and he reiterated that BRRAM is very much in support of RRTS' positions and statements on this. He stated there was a suggestion for another course of investigation, and the document that was mentioned is available if the Board is going to consider it; and Ms. Herman provided this to the Board this evening. Mr. Wilcox stated he

feels that should seriously be considered. He stated he is surprised to hear that the Board, in light of this important meeting on October 23, does not appear to have any particular strategy about what they will say as this is an opportunity to speak to them directly and express the concerns of Lower Makefield with regard to the expansion that is being discussed. He stated he feels they should already have in hand a specific strategy and statement as to what they are going to say at that meeting as they have known for a while that the meeting is coming up and it is a critical juncture.

He stated they would appreciate it if the Board would take this seriously and put some significant effort into this. He stated he knows that his entire organization of over 800 people who are concerned about the Airport expansion have asked to be communicated with on everything that comes up relative to the Airport. He stated they will be very anxious to hear what transpires at the meeting on October 23.

Dr. Weiss stated one of the items they need to address which is a recent development is the passage of the new FAA Re-Authorization Bill, but they have not been able to study the whole Bill. He stated one of the many features of the Bill is that the FAA now has “some actual enforcement clout” on noise issues with Airports, and another is that the FAA is now supposed to appoint local ombudsmen that work with the Airport on these items so that now that there are legal ramifications and remedies that they need to look at before they can actually address them which they hope to do between now and October 23 so that when they speak as a Board, they have something that they can actually use that would be productive; and they are taking that very seriously.

Mr. Wilcox stated the other thing that was raised at the last Advisory Committee meeting was the concept of the apparent segmentation and the impact on the EIS, and he asked what they could do in terms of discussing this with counsel to see if there is any avenue there to at least bring it up as an issue at the meeting. Dr. Weiss stated the FAA and Congressman Fitzpatrick’s office are looking at that. He stated at this point, he does not feel the Board feels the need to engage our counsel further; however if they do not hear from the Congressman’s office or the FAA in the next couple of days, they will probably re-visit that issue.

APPROVAL OF MINUTES OF OCTOBER 3, 2018

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to approve the Minutes of October 3, 2018 as written.

APPROVAL OF OCTOBER 1, 2018 AND OCTOBER 15, 2018 WARRANT LISTS AND SEPTEMBER, 2018 PAYROLL

Mr. Grenier moved, Ms. Tyler seconded and it was unanimously carried to approve the October 1, 2018 and October 15, 2018 Warrant Lists and September, 2018 Payroll as attached to the Minutes.

ENGINEER'S REPORT

Mr. Pockl stated with regard to Capital Projects, they are nearing the completion of the 2018 Township Road Program. He stated they would appreciate everyone's patience and cooperation with regard to Oxford Valley Road while they are completing its reconstruction. He stated most of the base course is finalized and stabilized, and they will put the final surface course on Tuesday and Wednesday of next week. He stated they will still be able to maintain access to the Community Center and points along Oxford Valley Road. Mr. Pockl stated S. Milton, Woodbrook, and Makefield Road will be paved next Monday, and the Makefield Road crosswalk will be installed on Tuesday of next week.

Mr. Pockl stated with regard to the Dog Park, they have issued a letter on the status of the Contract to the contractor. He stated they have received information from the contractor with some numbers that are in discrepancy with what he believes the final Contract amount to be, and they need to meet with the contractor to get that settled.

Mr. Pockl stated with regard to the Marble Court basin outfall structure, they anticipate delivery of that by the end of the month; and they are coordinating with Public Works on getting that installed.

Mr. Pockl stated with regard to the Township MS4 Program, they issued the annual report to DEP on September 30; and they are producing a map of the Township's storm sewer system that DEP requires, and they anticipate submitting that to DEP within three weeks. Mr. Grenier asked if they need any help with field mapping with that, and Mr. Pockl stated they do not at this time. Mr. Pockl stated when they met with DEP the last time, they informed DEP that the map they were going to be providing was based solely on the information that they had at this time; and DEP has agreed to allow the Township to present that to them. Mr. Pockl stated in the years going forward the Township will need to provide DEP a written Plan as to how we will address the gaps that are on the map. Mr. Grenier stated that may be a good volunteer opportunity to map some of that.

Mr. Pockl stated with regard to repairs at the Pool complex, they have reviewed assessment work required and coordinate with the Park & Recreation Department for site access. He stated they conducted site inspections the week of October 8. He stated they are reviewing information of pool wall repairs completed in the past, and they will be presenting their report to the Township within two weeks.

Mr. Pockl stated with regard to Heacock Road force main construction, they staked out the survey of the easement and the Railroad property line last week.

Mr. Pockl stated with regard to Planning Projects and Construction Projects, the Dobry Road townhomes are across the street from Caddis Healthcare; and they have not received anything on that. He stated with regard to Regency At Yardley North Phases 1 through 7 inspection is ongoing to address the punch list items. He stated they have met with the HOA to review the status of the punch list, and they have requested a meeting with the developer to review the punch list items and make sure that they have addressed them in advance of any final Dedication. Mr. Pockl stated with regard to Regency Carriage Homes which is the south phase, Phases 3 through 5, there is ongoing construction which they are monitoring; and they have no complaints at this time. Mr. Pockl stated with regard to Oakmont (Moon Nurseries) they are coordinating the inspection of the final punch list once the site work is completed. He stated he spoke with the developer, and they anticipate completing all of the site work by this Friday; and Mr. Pockl stated they will inspect that next week.

Mr. Pockl stated at Scammel's Corner they met with residents on adjacent properties concerning stormwater run off near the basin area. He stated they have reviewed a complaint from a property owner concerning stormwater run off onto their property as a result of the storms the end of September. Mr. Pockl stated they are meeting with the developer on Friday morning of this week to review their conversion of the stormwater management basin to a permanent system, and they seem to be amenable to making some minor grading adjustments on their property to address some of these stormwater concerns.

Mr. Pockl stated at Towering Oaks, there is ongoing construction of Lots 2 and 6; and they reviewed and approved the Permit for Lot 7. He stated with regard to Flowers Field there is ongoing construction of Lots 40 through 43 and Lots 30 and 31, and they are reviewing the plans for Lots 24 and 25. Mr. Pockl stated at Freeman's Farm they met with the developer on September 19, and his landscape architect has reviewed the development on October 4, and they issued a final punch list on October 8; and the developer is in the process of addressing that.

FOLLOW UP ON COMCAST PEDESTAL ISSUE

Mr. Ferguson stated they got a copy of the Comcast Agreement from 2010 that was referenced at the last meeting, and he and the Township solicitor are in the midst of reviewing it and asking questions of the solicitor that the staff has in regard to that. Mr. Ferguson stated that Agreement has also been forwarded to the Comcast representative. He stated he feels by the next meeting, they will be able to provide something more definitive as to what enforcement controls the Township has in regard to that settlement.

Mr. Zachary Rubin, 1661 Covington Road, stated he is the Chair of the Electronic Media Advisory Council, and he would like to participate in this discussion. Mr. Rubin stated he would like to provide a quick background as to what is going on. Mr. Rubin stated in 1996 the Lower Bucks Cable Company, which morphed into Time Warner, which eventually became Comcast started laying new television cable in the Sandy Run II neighborhood. He stated the Buck Creek Homeowners Association which represented them went to the Township to object to a number of above-ground pedestals. Mr. Rubin stated at that time the Township brokered an Agreement between Comcast and the Buck Creek Homeowners Association which resulted in an Agreement that the Cable Company at that time said that they would not put above-ground pedestals in the right-of-way except that the language in that Agreement had, "their best efforts language." He stated it did not say "shall," but they would "try to." Mr. Rubin stated the issue then was that there was a conflict that the Township has an Ordinance that said they could not put above-grade pedestals, etc. which is Section 268 and 239 of the Zoning Ordinance.

Mr. Rubin stated in 2006 Lower Makefield Township signed a Franchise Agreement with Comcast, and that is known as Ordinance 357. He stated on February 12, 2008 the Township Zoning Officer issued a Cease and Desist Order to Comcast specifically contending that Comcast had violated our Code that no structure installed or associated with the use shall be permitted to be located above grade level. Mr. Rubin stated also in that Cease and Desist there was the fact that a number of Permits were not asked for and therefore they were not granted. Mr. Rubin stated Comcast Appealed that Cease and Desist Enforcement Order to the Zoning Hearing Board; and on October 30, 2008, the Zoning Hearing Board sustained the Comcast Appeal, and they ruled that the Franchise Agreement superseded the Township Ordinances. Mr. Rubin stated he has the Franchise Agreement, and the Zoning Hearing Board cited Section 11-3 of Notices which reads as follows: "This Franchise Agreement supersedes all Ordinances or parts of Ordinances that are in conflict with the provisions of this Franchise Agreement." Mr. Rubin stated the Franchise Agreement therefore takes precedent over our Township Ordinances according to this because the Franchise Agreement is in the form of an Ordinance so it is the law.

Mr. Rubin stated the Township Appealed the Zoning Hearing Board's Decision to uphold the Comcast Appeal, and it went to the Bucks County Court of Common Pleas; and that Agreement/Stipulation is what they have been talking about. Mr. Rubin stated this was on May 19, 2010. Mr. Rubin stated Section 1 states: "The Township acknowledges and agrees that Comcast shall be permitted to erect above-ground pedestals within the rights-of-way in Lower Makefield Township notwithstanding the provisions of the Lower Makefield Township Zoning Ordinance." Mr. Rubin stated it also states, "If Comcast determines to change one kind of pedestal for another kind of pedestal or install a pedestal, a Permit shall be required." Mr. Rubin stated that was part of the Agreement that Comcast agreed to, and that they will get Permits. Mr. Rubin stated there were seventy-two above-ground pedestals at the time in the Sandy Run neighborhood where they did not apply for all of the Permits, and therefore that was the compromise.

Mr. Rubin stated at the last Board of Supervisors meeting, Mr. Berner came before the Board and maintained that in his daughter's neighborhood, these pedestals were not only unsightly but were dangerous; and that is the issue that is now before the Board of Supervisors. Mr. Rubin stated there is no question that Comcast can put in above-grade pedestals, and that they have to get Permits, which Comcast acknowledges, and the Township "gets some money from that."

Mr. Rubin stated there is another part of the Franchise Agreement that would prohibit them from putting in those above-ground pedestals, and it has nothing to do with the Stipulation Agreement but has to do with the Franchise Agreement. He stated 206-6 in the Franchise Agreement states under Permits and Obligations: "Equipment installed by the Grantee," which is Comcast, "for use in the cable system shall be located so as to minimize the interference with the proper use of the public right-of-way and the rights and reasonable convenience of property owners who own property that adjoin any such public way." Mr. Rubin stated that part of the Franchise Agreement is what Mr. Berner was alluding to. Mr. Rubin also stated B-4 in the Franchise Agreement states: "The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the Franchise area." Mr. Rubin stated that is what he feels they should be looking into before they start granting Permits.

Mr. Truelove stated Mr. Rubin's recitation was very accurate and even if he had not cited that Section of the Franchise Agreement, the Permitting requirements would always have to have a safety component. Mr. Truelove stated he feels that one of the things that should be emphasized with Comcast is that they have to get the Permits as apparently there has been a lack of acknowledgment of that at some level of Comcast according to some of the conversations that Mr. Ferguson has had with some of their officials. Mr. Truelove stated they also have to do it in a way that is safe and not in a way that would impede any kind of other easement requirements

or any other access, etc. Mr. Truelove stated according to the Agreement, the Permit Application is to consist of a map or plan depicting the location of all pedestals described in the Permit Application including identification of where the pedestal is or will be placed in a right-of-way, utility easement, or on private property. Mr. Truelove stated it is also to have the addresses or location at which the pedestals will be placed and a description of the type and size of the pedestal to be placed. Mr. Truelove stated any upgrades to pedestals would have to go through the same process. Mr. Truelove stated that would apply even without the Franchise Agreement as safety is something that will have to be addressed. Mr. Truelove stated he agrees with Mr. Rubin that the Franchise Agreement does give the Township the right to look at this from a safety perspective, and that is why the Permit Application is necessary so they can identify where they are going to be located and not put them in a place which is convenient for Comcast in terms of their transmission lines. Mr. Truelove stated the Township staff would have the opportunity to look at that once the Permit is submitted. Mr. Truelove stated until the Permit process is started, the contractor should not be doing any work.

Mr. Lewis stated one of the things that he has noticed in this case with the pedestals that they have seen thus far that have been installed outside the Permit process is with regard to the workmanship, and that some of it has been done very well and some of the pedestals are not even level and have been done in a “very shoddy manner.” Mr. Lewis stated that is part of the reason why there is a Permit inspection process to make sure of the workmanship and so that safety is maintained.

Mr. Rubin stated it is not only a safety issue, but the Franchise Agreement also says, “They have to minimize the interference with the proper use of the public right-of-way and the rights of reasonable convenience of property owners who have property that adjoins a public way.” Mr. Rubin stated if you want to cut your lawn, and there is a pedestal between your sidewalk and the street, he does not feel that is very convenient. He stated this is specific language in the Franchise Agreement. Mr. Truelove stated while that is correct, and it is something they can use, he cautioned about the word “reasonable.” Ms. Tyler agreed, and asked what that means.

Mr. Rubin stated this is going to come up again when they talk about 5G networks. He stated a few months ago the FCC gave permission to the wireless companies – Verizon and AT & T that they could start installing the 5G type of wireless. He stated instead of putting up cell towers, the wireless companies can put a 5’ rectangular box with an antenna on existing telephone poles; and where there are no telephone poles, they can build a structure to put these in. Mr. Rubin stated a lot of our neighborhoods do not have telephone poles, and they have underground wiring. Mr. Rubin stated since this is coming, and the Township needs to be aware of it.

Mr. Rubin stated Frank Farry, who represents Middletown in the State House of Representatives, has introduced a Bill saying that Municipalities cannot regulate or Permit these 5G boxes, and that it is a State responsibility. Mr. Rubin stated he feels we should fight that Bill. Mr. Rubin stated the FCC has said that the Municipalities cannot regulate this; however, he feels this should be adjudicated. Ms. Tyler stated Doylestown is in litigation on this. Mr. Rubin stated they came to an agreement with them about the number of boxes and where they could put them. Mr. Rubin stated the Bill that Mr. Farry introduced will negate that. Mr. Lewis stated on October 4, he wrote our State Representative in strong opposition on a personal level to House Bill 2364 regarding wireless facilities regulation, and asked him to vote no on that particular piece of legislation. Mr. Lewis stated one of the challenges aside from the aesthetic and safety issues is that it would strip the Municipalities of their ability to collect revenue. He feels many on the Board are in favor of the ability to protect the safety of people in the rights-of-way and in agreement with Mr. Rubin's concerns related to the Comcast pedestal issue and general enforcement of our Ordinances and Agreements with broadband providers.

MANAGER'S REPORT

Mr. Ferguson stated Tuesday, October 30 will be the Budget meeting at the Township Municipal Building, and he will have Township staff members present. The packets will be provided to the Board on Monday prior to the meeting, and there will also be packets available at the meeting for the public.

Mr. Truelove stated the Board met in Executive Session beginning at 6:45 p.m. and items related to Zoning, Real Estate, Contracts, and informational items were discussed.

SOLICITOR'S REPORT

Mr. Truelove stated since the last meeting his office has revised Ordinances, reviewed Right-to-Know Requests that were submitted by to the Township, met with the Administration and Police Administration regarding collective bargaining and other personnel issues. He stated they regularly communicate with staff regarding Ordinance and Resolution drafts preparing same. He stated they reviewed Zoning Hearing Board Appeals. Mr. Truelove stated they also attended Planning Commission and Sewer Authority meetings. He stated they also communicated with Supervisors regarding meeting and Agenda issues, Ordinances,

litigation, Real Estate and personnel issues as well as reviewed Land Development Applications and submissions. They also monitored and followed up on lien enforcement and coordination with counsel on on-going litigation.

DISCUSSION AND MOTION ON RE-ADVERTISEMENT OF ORDINANCE NO. 415
ADOPTING INTERNATIONAL PROPERTY MAINTENANCE CODE AND DISCUSSION
OF ADVERTISING ORDINANCE ADDRESSING VACANT PROPERTIES

Mr. Truelove stated these items are inter-related, and at the last meeting there was discussion about adopting the International Property Maintenance Code; and there were some questions about the interplay with the Vacant Properties Ordinance which his office addressed along with some separate questions with respect to the Vacant Properties Ordinance. Mr. Truelove stated Ordinance No. 415 regarding the IPMC was discussed previously by Mr. Majewski as an update of the current Property Maintenance Code which dates from 1993. Mr. Truelove stated his office did supply comprehensive information to the Board.

Ms. Tyler moved and Ms. Blundi seconded to re-advertise for November 7 Ordinance No. 415 adopting the International Property Maintenance Code.

Mr. Grenier stated the Planning Commission made a recommendation with regard to the enforcement section. Mr. Truelove stated the Board should decide if they want to include that into the advertisement. Mr. Grenier stated they had recommended that they soften that section and change the word “shall” to “may.” Mr. Grenier stated they also made a recommendation that every day would be considered a separate enforcement action, although he knows that the staff was not in favor of this. Mr. Truelove stated at this point they are not advertising it with those changes unless the Board decides otherwise.

Mr. Lewis stated if they want to make amendments, it should be done now since once it is advertised, if there are significant amendments, they would have to re-advertise again which is an additional cost.

Mr. Grenier stated he would be in favor of changing “shall” to “may,” to make it at the discretion of staff; but he would not be in favor the Planning Commission’s second recommendation as that could make it a very expensive fee.

Mr. Ferguson stated the staff indicated they would prefer it remain “shall,” because they felt it would “give them teeth.” He stated they also felt the fine that was currently outlined gave flexibility to the staff. He stated they feel that the fine should be reasonable to the extent that they felt they could defend it before a Magistrate.

Ms. Tyler stated the Township staff was satisfied with the language as proposed, and Mr. Truelove agreed. Ms. Tyler stated she would not amend her Motion.

Mr. Grenier stated there is a “short piece” that is specific to a grease trap provision. He stated the Sewer Authority will be putting forth a Grease Trap Ordinance in the not too distant future; and he would like to remove the Grease Trap Section from the IPMC so that it will be clean when they get to the final Grease Trap Ordinance.

Ms. Tyler stated if they take that out now, they would have no Grease Trap Ordinance on the books until the Sewer Authority makes their recommendation.

Mr. Truelove stated this is Section 506.3.

Ms. Tyler stated her Motion will remain as stated.

Mr. Grenier asked Mr. Truelove with regard to the related “Blight Ordinance,” since there were a lot of questions about that, does that impact how they deal with the IPMC; and he asked if they should consider them as a “package deal.” Mr. Truelove stated he feels they can do the IPMC at this time adding they would not want to do the Blight Ordinance before the IPMC. He stated there is no detriment moving to advertise the IMPC tonight and defer the other for further discussion.

Motion carried with Mr. Grenier opposed.

Mr. Truelove stated with regard to the Vacant Properties Ordinance, at the last meeting they discussed the scope and origin of this proposed Ordinance which does derive from State law. He stated there were a number of questions, and he thanked Ms. Tyler and Mr. Grenier for submitting questions which his office responded to. He stated it is possible that may have created some additional questions from those answers. He stated they could defer this to the next meeting if they want to have more dialogue.

Ms. Lewis stated the one issue she had which was not fully addressed was when they established the Historic District they had entered into an Agreement with another entity, and she is not clear that they can unilaterally change any rules within that District. Mr. Truelove asked if she would like more review of that, and Ms. Tyler agreed adding that Mr. Majewski may be able to answer that question.

Mr. Truelove stated if the sense of the Board this evening is to not vote to advertise, he would ask that any other questions be provided to his office as quickly as possible so that they can address any additional questions. Mr. Ferguson stated they can also discuss them with Mr. Majewski.

Ms. Tyler stated one of her questions had to do with properties that were for sale, and Mr. Truelove stated the way his office answered that was that it would be very specific. He stated the concern is that someone could have a “sham” sale and just post a sign and have an exorbitant sale price that would not be realistic. He stated it may be that this is a way to evade responsibility for maintaining the property in the proper manner.

It was agreed to defer this matter to the next meeting.

Ms. Tyler stated she would like to make sure Mr. Majewski reads all the responses from Mr. Truelove’s office, and Mr. Truelove agreed to provide that information to Mr. Majewski.

Mr. Lewis stated the impetus for this Ordinance was as a result of a meeting held on August 30 to discuss concerns with vacant properties. Mr. Lewis discussed his experience in another Township which resulted in fines to owners which was revenue positive for the community and significantly decreased the number of boarded-up properties. Mr. Lewis stated with changes to both the IPMC and Act 90 it has given our Code Enforcement Department more leeway to deal with that problem. Mr. Lewis stated while Lower Makefield has only a few boarded-up properties, they need to address them. He stated there are also a significant number of vacant properties, and they want to give the Township staff the tools to do enforcement and keep the public safe.

APPROVE EXTENSIONS OF DOGWOOD DRIVE AND OCTAGON CENTER

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to accept the Extension request of Dogwood Drive to February 1, 2019.

Ms. Tyler moved, Mr. Grenier seconded and it was unanimously carried to accept the Extension request of Octagon Center to December 31, 2018.

APPROVE RESOLUTION NO. 2377 ACCEPTING DEDICATION OF BROOKSHIRE I AND II AND DISCUSSION OF DEDICATION OF TROILO TRACT (BROOKSHIRE III)

Mr. Truelove stated these items are related and are connected by roadways and improvements. He stated they have looked at them individually and collectively, and at this point the recommendation is to pass Resolution No. 2377 accepting Dedication of Brookshire I and II but to not move to accept Dedication of the Troilo Tract (Brookshire III) because of some continuing issues primarily having to do with one or two of the detention basins.

Mr. Pockl stated there is a rain garden that controls the stormwater for Brookshire Phase III (Troilo Tract), and at the time of his inspection, it was still holding water. He stated there was approximately one foot of water within the basin fifty-four hours after a significant rainfall event. He stated the basins are allowed to hold water for seventy-two hours; however, the information he received from residents and the Homeowners Association is that the level of the water within the basin at that time had not decreased and that they have had ongoing concerns with standing water within the basin.

Ms. Tyler asked what they will do about this. Mr. Pockl stated in reviewing the As-Built Plan there is a portion of the basin that is lower than the bottom of the outlet structure, and theoretically they could go in and fill the bottom of the basin and then any water that would be in the surface would then be able to drain through the outlet structure. Mr. Pockl stated alternatively if they go out on a dry day and it is no longer holding water, they could deem it as not a significant issue. He stated DEP has already issued their Notice of Termination for that particular basin which means that DEP has signed off on it and that it was okay in their opinion. Mr. Pockl stated he tends to err on the side of caution.

Ms. Tyler moved and Dr. Weiss seconded to approve Resolution No. 2377 accepting Dedication of Brookshire I and II.

Mr. Pockl stated as a result of his inspections and walk through with the Homeowners Association, he noted that there were some minor issues which would just require some topsoil and seed in certain areas as well as fixing the joint of a sidewalk which he believes can be addressed during the maintenance period. He stated he saw no significant incident which would prohibit Dedication of the public improvements.

Mr. Grenier asked if they are in compliance with tree replacement requirements or any tree fees they may have. Mr. Pockl stated he completed the walk through of the tree replacement that was required, and he understands that there is an Agreement that the developer will be providing a check to the Homeowners Association to address those issues. Mr. Truelove stated there is a specific amount identified. Mr. Grenier stated he understands that they have not planted the trees yet that they are required to. Mr. Pockl stated the developer provided a check to the Homeowners Association, and the Homeowners Association is now looking to bring in a contractor or landscaper to plant those trees. Mr. Grenier asked if the Board should hold off on Dedication until they actually do that. Ms. Tyler stated the developer has met their obligations by giving the Homeowners Association a check. Mr. Grenier stated their obligation is to plant a certain number of trees, and the additional check they write is for other trees.

Mr. Edward Murphy, attorney for Brookshire, stated the Homeowners elected to seek to plant trees differently than what was on the approved Landscape Plan, and they asked that what was on the approved Plan not be planted. He stated the HOA requested the opportunity to do their own planting, and the developer negotiated with the HOA and paid them \$45,000; and the HOA will assume responsibility to plant their own trees. Mr. Murphy stated he understands that the HOA needs approval from the Township to modify the spec of the planting detail on the approved Plan.

Mr. Grenier asked if the HOA gained approval from the Township to change the Landscape Plan.

Mr. Truelove stated Sub Section 1F in the Resolution states: “The developer transferred \$45,095 to the HOA for the purpose of satisfying all landscaping conditions referenced in the Remington Vernick Engineers July 26, 2018 letter describing the required remaining landscaping and punch list items to be satisfied.” Mr. Truelove stated they will need to comply with the specifics in Mr. Pockl’s engineering letter.

Mr. Grenier asked if they are meeting all buffer requirements with their Revised Plan. Mr. Pockl stated he has not seen a Revised Plan. He added that a lot of the trees which were dead or diseased were not buffer or screening trees. Mr. Grenier asked if the final Plan will be coming before anyone for approval other than Mr. Pockl. Mr. Grenier asked if they need an Amended Plan to change the Landscape Plan. Mr. Pockl stated the Landscape Plan is not a Recorded Plan. He stated he feels they will meet their landscape requirements, and they are just adjusting locations so that they avoid utilities, etc. Mr. Ferguson asked if that would be in the Final As-Built Plan so that they could have that, and Mr. Pockl stated it would be submitted prior to them planting the actual trees. Mr. Ferguson stated at some point he feels the Township would get an outline of what they are doing on a Plan and that if the HOA is taking over that part, he would assume the HOA would need to submit something to the Township’s satisfaction that what they have planted is adequately represented on something that would come back to the Township. Mr. Pockl agreed and stated he has conveyed that to the HOA which acknowledged that they are in agreement with that. Mr. Ferguson stated if there are trees to be planted, they will probably be planted in the spring; and they would need to convey to the HOA information as to what their obligations would be. Mr. Ferguson stated the developer has met their obligations according to the Agreement, but now that will be passed on to the HOA as to their requirements. Mr. Pockl stated in the letter that he issued in July it outlines the number of trees and the types of trees that were required to be planted. Mr. Pockl stated the Homeowners Association was going to provide a plan to adjust the location of where the trees will be planted.

Ms. Tyler suggested that the HOA be sent a follow-up letter reminding them and providing a copy of the July, 2018 letter. Mr. Ferguson stated he still believes that they need a place to memorialize this since it could differ from what was originally approved as part of the Landscaping Plan. He stated the idea was to give the HOA the flexibility to plant those in a place that they felt was consistent with the desires of the HOA and there is still a specific obligation for doing so. Mr. Pockl stated he can follow up with the HOA to make sure of this. Mr. Ferguson stated he feels they need to convey to the HOA what the requirements will be as far as submission to the Township so that it is memorialized, and Mr. Pockl agreed.

Mr. Grenier asked Mr. Truelove if they should amend the Motion to include the provision that the HOA provide the information needed. Mr. Truelove stated he could probably do that. Ms. Tyler asked if the Township has any mechanism to bind the HOA, and Mr. Truelove agreed that the HOA is not a Party to this Agreement. Ms. Blundi stated at a previous meeting a member of the HOA came and stated that the HOA was in favor of this; however, we want to make sure it happens and that the HOA is bound to do this. Ms. Tyler stated the HOA has an Agreement with the developer, but the developer has discharged their responsibilities and gave the HOA the money. She stated the Homeowners Association has the duty to make sure that they provide for the homeowners. She stated she feels the Township needs to follow up with a letter to the HOA and ask them to submit a plan.

Mr. Murphy stated this was not done in a vacuum, and they did it in concert with the Township. Mr. Murphy stated the homeowners came to the developer and asked if they could work out this arrangement, and the developer indicated that they would have to talk to the Township to make sure they were in agreement with that because it is at variance with the approved Landscaping Plan. Mr. Ferguson stated with that Agreement he feels there is legal standing that the Township would have in the event that the HOA decided they did not want to plant any trees.

Mr. Truelove stated he just received a text from Mr. Majewski as follows: "No Amended Plan is needed, and a Plan will be submitted prior to planting for review and approval. The HOA is preparing a Plan." Mr. Grenier stated as long as the Township has enforcement and authority, he is satisfied. He stated his concern was that the HOA could walk away and he wanted to make sure that there was protection for the Township and the neighbors.

Ms. Blundi stated when Mr. Barone was previously before the Board he stated that they were working actively with landscapers to get the plans in place so she feels they should follow up with him.

Motion carried unanimously.

Mr. Truelove stated Ms. Blundi has provided a copy of the Minutes from the last meeting and there is an indication that Mr. Barone, who was the representative of the HOA, stated they would be willing to comply with the terms of the Resolution.

Mr. Truelove stated with regard to the Dedication of the Troilo Tract (Brookshire III) because of the reasons outlined by Mr. Pockl earlier, it is recommended that the Board not accept Dedication because of the ongoing drainage issues that need to be remedied before Dedication can be accepted. He stated the appropriate request would be to deny the request for Dedication.

Dr. Weiss moved and Mr. Grenier seconded to deny the request for consideration of Dedication of Brookshire III (Troilo Tract).

Mr. Grenier asked where they stand with the trees. Mr. Murphy stated the only issue he heard and the reason why it is being deferred is because of the basin, and Mr. Pockl agreed.

Mr. Zachary Rubin advised the Board that Motions should be in the positive so the correct Motion would be to consider the Dedication of Troilo Tract (Brookshire III) and then to vote no. Mr. Murphy stated he believes the proper Motion would be to defer it because as soon as the drainage issues are resolved, it will be back before the Board. Mr. Truelove stated there are various interpretation of Roberts Rules of Order.

Dr. Weiss withdrew his Motion and asked that the decision be postponed until everything is ready for consideration. Mr. Truelove stated he would need to move to vacate the prior Motion and substitute the Motion.

Dr. Weiss moved to vacate. Mr. Rubin stated the Chair can rule that the Point of Order is in order and therefore they could just “ignore it.”

Mr. Lewis moved that the Point of Order is in order.

Ms. Tyler moved to vacate the prior Motion. Mr. Rubin stated they do not have to do that; and the Chair can do that; and that the Point of Order is well taken, and they do not have to withdraw. Mr. Rubin added that “there is no such thing” as a Motion to defer. He stated Dr. Weiss is correct the Motion is to postpone until either a definite or an indefinite time which is a debatable Motion.

Mr. Grenier seconded the Motion to withdraw.

Dr. Weiss requested that they postpone this item until all issues are resolved. Mr. Truelove stated according to Mr. Rubin, you do not have to have a Motion to do this although they could if they want to. Mr. Truelove stated this is not governed by the MPC where you have to accept Dedication in a certain period of time. Mr. Truelove stated the Board does not have to do anything, and no action was taken.

APPROVAL OF FINAL SUBDIVISION AND FINAL LAND DEVELOPMENT PLANS FOR CADDIS HEALTHCARE REAL ESTATE SENIOR LIVING FACILITY

Mr. Edward Murphy, attorney, was present with Mr. Eric Reiter, one of the principals of Caddis, and Mr. Justin Geonnotti, engineer. Mr. Murphy stated the Board is familiar with this development, and in the summer they granted Preliminary Subdivision and Land Development approval subject to a number of Conditions. Mr. Murphy stated since then the Final Plans have been submitted, and most recently reviewed earlier in the month by the Planning Commission which did recommend Final Subdivision and Final Land Development Plan Approval subject to Conditions in various consultant review letters.

Mr. Murphy stated the Township solicitor provided him with a draft of a potential approval letter to which he had provided a number of comments. Mr. Murphy stated there should be one Motion for the Land Development Plans and a separate Motion for the Subdivision.

Mr. Truelove stated the Motion would be to approve the Final Land Development Plans for Caddis Acquisition Partners, LLC. Application for the Plans Tax Map Parcels #20-32-008-002 and #20-32-009 for Plans from Dynamic Engineering Consultants P.C. dated 3/16/18, last revised 8/31/18 consisting of twenty-nine sheets and subject to the Conditions as follows:

- 1) Applicant shall comply with the Lower Makefield Township Subdivision and Land Development Ordinance, the Lower Makefield Township Zoning Ordinance, and all applicable State and Federal Ordinances, Statutes and/or Laws;
- 2) Where applicable, receipt of all Permits, authorizations, and/or approvals from agencies with jurisdiction including but not limited to Pennsylvania Department of Environmental Protection and the Bucks County Conservation District;

- 3) Compliance with the Remington & Vernick Engineers 9/27/18 review letter and any supplements to said letter;
- 4) Compliance with Traffic Planning & Design, Inc. 9/27/18 review letter and any supplements to said letter;
- 5) Compliance with the 9/11/18 PennDOT review letter and any supplements to same;
- 6) Compliance with Lower Makefield Township Planning Commission memorandum dated 10/8/18;
- 7) Compliance with the Ebert Engineering, Inc. review letter dated 9/28/18 regarding sewer and related issues and any supplements to said letter;
- 8) Compliance with the 9/4/18 traffic review letter and note from Thomas Roche, Traffic Safety Officer Lower Makefield Township Police Department;
- 9) Full or partial Waivers are granted as listed and enumerated in the applicable Remington & Vernick Engineers review letter referenced above with the addition of the Waiver on Item #44 as the Applicant will conduct six test pits instead of the required seven;
- 10) Compliance with the fire protection letter from James V. C. Yates dated 9/8/18;
- 11) Compliance with the Bucks County Planning Commission memorandum dated 4/19/18;
- 12) Applicant will be responsible for the construction of the entire width of Dobry Road from Oxford Valley Road to the westernmost portion of the property and connection to the existing roadway at that point;
- 13) Applicant agrees to pay a Fee-in-Lieu for cost of construction of a sidewalk for approximately 1,050 linear feet at \$125 per square yard or approximately \$72,875;

- 14) Said road improvements noted above are necessary and Conditioned in order to secure an easement across the applicable Township-owned right-of-way;

Mr. Truelove noted that there is a right-of-way just adjacent to Dobry Road and the Oxford Valley Road intersection at that location.

- 15) Applicant will be permitted to install parking spaces with a 9' by 18' dimension, and a Waiver from Section 200-78.E.1 Sub b, which requires a 10' by 20' dimension;
- 16) A Waiver is granted to permit a Traffic Study with a reduced intersection scope per the applicable note in the Traffic Planning & Design 9/27/18 review letter;
- 17) Where applicable, Applicant shall comply with all comments from the appropriate authorities responsible for the approval of the proposed utilities;
- 18) Applicant shall be required to pay appropriate fees associated with the project.

Mr. Grenier moved and Ms. Blundi seconded to approve as read by Mr. Truelove.

Mr. Murphy stated the most significant design issue that occurred since they appeared before the Board of Supervisors in July was that they needed to design engineered plans for the reconstruction of the entire length and width of Dobry Road from Oxford Valley Road to the Railroad tracks. He stated that design has now been done, and it has been reviewed by Mr. Pockl and others. Mr. Murphy stated they have addressed comments and revised the plans, and he feels that the design plans that are in place represent what the Township is looking to have done on that entire length and width of Dobry Road.

Mr. Murphy stated Mr. Ferguson also hosted a meeting with the developers across the street for the Erin project, and they discussed with Mr. Ferguson, Mr. Pockl, and staff the cost allocation of construction of the roadway. Mr. Murphy stated those costs will be covered by a combination of Caddis and Erin so that there is no cost to the Township; and the developer is fully complying with all the design criteria that everyone has requested. Mr. Murphy stated he feels they have a "gentleman's understanding" between Caddis and Erin that there will be a sharing of costs based on some proportionate basis.

Mr. Murphy stated because Caddis is first, the Township is looking to Caddis in Condition #12 that Caddis be responsible for both sides of the street from the western boundary line to Oxford Valley Road. Mr. Murphy stated they will have to negotiate that out between Erin and Caddis, and as it reads in Condition #12 he does not feel they have an objection to what is written. Mr. Murphy stated he had earlier suggested that the Township use their best efforts to make sure that Erin also pays its fair share, and he feels it is a reasonable request that everyone use their best efforts to make sure that is done.

Mr. Murphy stated with regard to the sidewalk (Item #13) depending on where it is measured, they have either 825 linear feet of frontage where a sidewalk would go, or if they include the Township piece on Oxford Valley Road it would be up to 1,050 linear feet of sidewalk potentially on their side that because of the existence of the historic home along the front, they are not doing; however, they are doing it as part of the Dobry Road reconstruction on the opposite side of the street. Mr. Murphy stated forgetting the cost of doing Dobry Road on both sides from the westernmost edge to Oxford Valley and how much they would otherwise have been obligated to pay, he feels everyone can agree that what they are doing is a lot more. Mr. Murphy stated they are effectively installing sidewalks on the opposite of the street. Mr. Murphy stated in theory Erin will also bear some part of the cost of that even though Caddis is doing the work. Mr. Murphy stated he feels there should be an acknowledgement that the cost of the sidewalk they are installing on the other side coupled with the fact that their contribution to the “big solution” is so much more. He stated he feels that the value of the sidewalk at \$72,000 is inflated since it is not \$125 a square yard for sidewalks. He stated they would like to understand the parameters of that if the Board would like to defer to staff to negotiate that between now and the time they get to the Development Agreement.

Mr. Murphy stated currently the Motion says approximately \$72,000 so there is flexibility in the way it is worded. Mr. Murphy stated Condition #13 states that the developer will pay the Township approximately \$72,875. Mr. Murphy stated that was before anyone designed Dobry Road, and none of them knew whether they were going to put a sidewalk in on the other side.

Mr. Murphy stated that could be the only issue other than explaining what they mean by paragraph #18 as to what the other required and appropriate fees are. He stated he had asked if it was the standard paragraph that they typically see that they have to reimburse Mr. Truelove and Mr. Pockl, and Mr. Truelove stated that was the way it was meant; and Mr. Murphy stated he would be okay with that. Mr. Murphy stated there is no Park & Rec Fee for this project.

Mr. Murphy stated the Township is getting a significant road improvement that the Township will not have to pay for. Mr. Truelove asked Mr. Murphy if they would accept the Motion as read understanding that he would be able to discuss with staff the issues of the sidewalk and coordinating with Erin Development.

Mr. Murphy stated the Planning Commission asked if they could do any type of landscaping elevations so that everyone would have a better perspective on the relationship of the landscaping around the perimeter as it relates to where cars would be traveling, and they have that available. He added that they also relocated the dumpster and the generator a few hundred feet into the site which had been discussed at the Planning Commission. He stated they also discussed what impact, if any, the grade elevation would have on car lights.

Mr. Murphy stated in response to Mr. Truelove's question, provided the Board gives the staff some direction, he would be comfortable with the Motion.

Mr. Grenier asked that they describe the road improvements, and Mr. Geonnotti showed a Plan of the project. He stated for Dobry Road they are taking it from the intersection of Oxford Valley Road all the way to the Railroad tracks where it is now. He stated they will do full width widening, and a full depth reconstruction. Mr. Grenier asked the current width; and Mr. Geonnotti stated it is currently varies between 16' and 18' depending on where you are on the roadway, and they will widen it to the full 26' width with curb and sidewalk on one side. He stated they will have full stormwater drainage along the whole length. Mr. Murphy stated it is a very significant undertaking.

Mr. Grenier stated with respect to the dumpster and the generator, they have been relocated to the north along the edge of the property outside of the buffer. Mr. Grenier asked them to describe how they will screen it from the adjacent landowner. Mr. Geonnotti stated the dumpsters themselves will be enclosed in a full masonry enclosure which will be gated, and it will be clad with the same façade as the building. He showed on the plan how they are providing a landscaped buffer around the full exterior of both the dumpsters, and they also have a landscape buffer requirement between an Institutional/Commercial use and the Residential use that is existing. He stated they will also be providing a 6' high fence along that perimeter property line, and he showed on the Plan where this will be located going past the generator which will shield the view even more from the adjacent property owner.

Mr. Grenier asked about the use of the generator and the 76 decibel level it will come up to when in use. Mr. Geonnotti stated it will be tested once a month for thirty minutes up to two hours, although it is typically thirty minutes. He stated it will also run in emergency situations. Mr. Geonnotti stated he decibel level

outside the sound cabinet is 76 decibels. He stated because it is a Residential use adjacent to it, the Ordinance has a requirement that it be 55 decibels. He stated at the Planning Commission Caddis agreed, at the time of installation, to do a sound test. He stated the number of 76 decibels does not take into account fencing and landscaping or anything else that is around there; and if necessary they will install additional sound measures to ensure that the Ordinance level requirement is met at the property line.

Mr. Grenier asked the frequency of trucks going to the dumpsters. Mr. Geonnotti stated it would be once or twice a week. Mr. Grenier stated they would do this during normal business hours, and Mr. Grenier stated he believes that per Code it cannot be before 6:00 a.m.; and Mr. Truelove stated it could not be before 6:00 a.m. on week days and 7:00 a.m. on weekends.

Mr. Grenier asked about the stormwater basin and the slow release. Mr. Geonnotti stated water will be conveyed to the stormwater basin, but there is no infiltration on the site; and DEP has an approved concept known as the slow release concept which is a stormwater basin with a sand mix underneath it. He stated there is a perforated under drain which is conveyed to an outlet structure; and the water filters through the sand media at a slow rate and into the under drain where it is slowly conveyed out through the outlet structure and downstream. He stated it is an alternative in areas where you cannot have infiltration.

Mr. Grenier asked if there are any additional measures they do when there is a basin like this, and Mr. Geonnotti stated there will be plantings in the basin which will take up some of the water. He stated they do not take credit for those, and they do not take credit for the storage in the sand either so that is additional volume. Mr. Geonnotti stated there are also maintenance requirements if it is not functioning properly.

Mr. Grenier stated there were questions about the right in, right out, and left turn at the entrance, and at the Planning Commission they had discussed what PennDOT had mandated; and he asked for furthest discussion on that situation. Mr. Geonnotti stated their original submission to PennDOT was for right in, right out; and PennDOT came back indicating that the right in, right out was acceptable, but they also had to add a left in turning movement. Because the center turn lane exists in Oxford Valley Road they indicated it would create an unsafe situation not to allow a left turn into the site since they would expect drivers to try to make that movement. Mr. Grenier asked how far that entrance is from the Regency entrance to the south, and Mr. Geonnotti stated it is 300'.

Mr. Grenier noted the new drawings showing the elevations. He stated at the Planning Commission meeting there were questions about buffers and car lights. Mr. Geonnotti stated the drawings show a section view looking at the view for the Regency residents. He showed the berm that exists between the Caddis property and the Regency property, and the Caddis property is 10' lower in elevation so the car headlights would be looking right into the berm. He showed on the Plan the amount of landscaping that will be installed on the Caddis side. He also showed on the Plan a picture of the landscaping after five years' growth. Mr. Geonnotti also showed a Plan showing the trees that are on the Regency property which will also continue to grow. He stated they will therefore have the buffer that Caddis is required to install plus the buffer that Regency has installed. Mr. Grenier asked for an estimate of the Regency buffer, and Mr. Geonnotti stated he believes that their buffer is between 25' and 30'. Mr. Geonnotti stated Regency has the 50' yard to the back of their houses plus Caddis has 37 ½' to the edge of their curb. Mr. Grenier stated he is mostly interested in the width of the vegetation, and Mr. Geonnotti stated there is the width of the Regency buffer, plus their yards, plus the width of the Caddis buffer to the curb so it is at least 50' if not 80'.

Mr. Grenier stated in the elevation view, the headlights of a normal car would not be a problem; however, there were questions at the Planning Commission about ambulances or other vehicles with sirens on which may be called in for service. He stated those vehicles seem that they would still be below that based on the elevations, and Mr. Geonnotti agreed adding there is a 10' elevation difference.

Mr. Lewis asked if the dumpster is locked, and Mr. Reiter stated the enclosures are gated and clad, but there is not a padlock. Mr. Lewis stated there is a cooperative effort with the developer to the north of the facility; and he asked what would happen if that developer does not complete the development, and Mr. Murphy stated the road would still have been installed. Mr. Lewis asked about the lights on the building, and Mr. Geonnotti stated the building will have wall lights that will be pointed downward to illuminate the path around the building. Mr. Geonnotti stated they have a lighting plan which was reviewed and is in compliance.

Mr. Mitchell Goldberg, 249 Carson's Way, asked to be shown on the Plan where they have a distance of 300' as noted earlier; and this was shown on the Plan.

Mr. Goldberg showed an area on the plan and noted where there is a cut out which is approximately 290', and an area on the Plan to Dobry Road which is 160'. He stated the area they are saying is 300' is much smaller than that. He stated this is going to cause traffic issues. Mr. Geonnotti stated this was all reviewed at the Planning Commission.

Mr. Goldberg stated two weeks ago they asked how many trucks there would be a week, and the answer was four to five or a little more; and it goes up and down depending on who they are talking to. Mr. Reiter stated when they were just asked this question earlier this evening, they were asked specifically about trash trucks, and that would be one to two per week. He stated at a previous meeting when they indicated there would be four to five trucks a week that was with regard to deliveries at the back door.

Mr. Goldberg stated originally the Plan was “flipped;” and somehow they flipped it back saying that the residents did not want the parking spots on their side. Mr. Goldberg stated he does not know where that came from. He stated he feels they flipped it because they would have to get some Variances to “not flip it,” and they flipped it and said it was because the residents did not want it. He stated they then said they could not flip it back.

Mr. Pockl stated there was a Sketch Plan that showed parking between the residences at Regency and this property, and Mr. Murphy agreed that there was such a Plan at the very outset of the project. He stated there was push back about that Plan because of the multiple Variances that were required including the location of the parking in the rear within the required setback; and there was clear direction from everyone that if the Plan was going to proceed it had to be Variance free. He stated they then revised the Plan and that required them to relocate the parking to the front of the building.

Mr. Goldberg stated that was the “real” Plan, and they could flip it back if they wanted to, but they said they could not. Mr. Murphy stated he advised Mr. Goldberg multiple times at the Planning Commission meeting that they were not going to do that. Mr. Goldberg stated they could have done it; however, Mr. Murphy stated without Variances they could not have done it. Mr. Goldberg stated they could have “done Variances” and reversed it.

Mr. Zachary Rubin stated he is in opposition to the Plan because of the reasons that Grace Godshalk came in front of the Board numerous times talking about the parcel of land that the Township owns. Mr. Rubin stated he understands what right-of-way is and what PennDOT has signed off on, but the point is the spirit of the acquisition of that land that the Township put “good taxpayer money out” to provide a greenway along Oxford Valley Road which Ms. Godshalk alluded to numerous times. Ms. Tyler stated that is incorrect. Mr. Lewis stated Mr. Truelove has researched this. Mr. Truelove stated while he does not have it with him tonight, the Deed itself does not mention open space at all. Mr. Lewis asked Mr. Truelove if he has reviewed the Minutes as well, and Mr. Truelove stated he has. Mr. Rubin stated what he said was the “spirit of that acquisition,” and he did not say what was

on the Deed or what was legal. He stated it is the ingress and egress to Oxford Valley Road, and he believes that the “spirit of that parcel” as Ms. Godshalk, who was on the Board, stated that it was supposed to be a greenway along Oxford Valley Road. Mr. Rubin stated he believes that this Plan contradicts the spirit of that acquisition although not the legality. Ms. Tyler stated the spirit of that acquisition was to allow the widening of the road, and that is why that property was acquired. Mr. Rubin stated that is also true, and the Township paid money; but they also extended that parcel of land to specifically make sure that there was no development on it. Mr. Rubin stated she testified twice in front of the Board of Supervisors, and they could check the Minutes. He stated he is opposed to the Plan as long as the ingress/egress is on Oxford Valley Road, adding they could have that on Dobry Road.

Mr. Albert Scalone, 247 Hoover Way, stated he is across from the proposed “portico entrance” where they were discussing the headlights. He stated he appreciates that the Plans were created to show the buffering. He stated at the Planning Commission he was one of the residents who raised issues, and he was told that if they found that the buffering was insufficient that there was a potential way to alleviate that by using funds that the developer had set aside for additional trees and plantings. Mr. Scalone asked what the mechanism for that would be, and he asked if he would have to call the Township engineer to come out to witness the lights at his property. Mr. Murphy stated they did indicate at the Planning Commission meeting that after they were completed with the plantings of the buffer as described by Mr. Geonnotti, Mr. Pockl could come and look at it to see if it was an effective screen to shield headlights. Mr. Murphy stated if Mr. Pockl had recommendations for additional plantings, they would do so. Mr. Lewis stated if Mr. Pockl had inspected it and found that it did not meet his requirements for shielding, that would be resolved prior to Dedication. Mr. Murphy stated there will not be a Dedication because this is private; however, they agreed to have Mr. Pockl to come out. Ms. Tyler stated Mr. Scalone is asking what he should do. Mr. Scalone asked if someone could come out when the property is finished, or before while the trees are going in, and come in with a car with headlights on and the high beams, and come to his house and look out to see what they see. Mr. Pockl stated he would be happy to do that.

Ms. Blundi asked Mr. Scalone if he is talking about a few months after the project is completed since the trees would not yet be grown. Mr. Scalone stated once the project is done, he would not expect them to start digging everything up again; but maybe they could come out six months later, although he would not want to wait five years having this condition. He stated he feels it should be something within reason. Mr. Ferguson stated he feels they would be able to assess if there was a gap that the light would not be covered by the trees growing in versus there being a hole that clearly will never fill in. He stated he feels they would be able to make a

reasonable assessment. Mr. Scalone stated he could come before the Board with his evidence; however, Mr. Murphy stated they could do it earlier than that. Mr. Ferguson stated they will do it administratively, and Mr. Pockl will report to him. He stated the Township does have leverage since there are certain securities posted, and the project would not be closed out until Mr. Pockl was satisfied.

Mr. Scalone stated with regard to the discussion they had about the plantings on the Regency at Yardley, they are not as “great” as they were portrayed to be. He stated some areas are very dense and some are not. He stated behind his house there is not much preventing light coming through.

Mr. Murphy agreed to accept the Conditions that were read into the Record for the Motion.

Motion carried unanimously.

Mr. Grenier moved, Ms. Blundi seconded and it was unanimously carried to approve the Subdivision Plan for the Tax Map parcel numbers indicated in the previous Motion.

ZONING HEARING BOARD MATTERS

With regard to the Jeffrey and Kathleen Hirko Special Exception/Variance for the property located at 1450 Dolington Road in order to permit the keeping of pet chickens and goats on less than the required acreage, it was agreed to leave the matter to the Zoning Hearing Board.

Mr. Truelove stated the Erin Development Company is requesting Variances for the property located on Dobry Road west of the intersection with Oxford valley Road in order to permit construction of quadriplex units and less than required setback from resource protected woodland boundary. Mr. Truelove stated this is the property across from the Caddis property just discussed, and it is the recommendation of the staff to leave this to the Zoning Hearing Board.

With regard to the John and Sallie Kingham Variance request for the property located at 918 Putnam Drive in order to permit construction of garage storage/work area resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Tomasz Stasluk and Magdalena Szorc Variance request for the property located at 1229 Greenhill Road in order to permit construction of addition and driveway resulting in greater than permitted impervious surface and encroachment into the front yard setbacks, it was agreed to leave the matter to the Zoning Hearing Board.

SUPERVISORS REPORTS

Mr. Lewis stated the Zoning Hearing Board met last evening and an Applicant met with a neighbor and came to a compromise regarding their Variance which worked out well, and he advised anyone coming before the Zoning Hearing Board to reach out to their neighbors so that there is an opportunity to have an open discussion. Mr. Lewis stated the Golf Committee met and reviewed the financial progress of the Golf Course and the 2019 plans.

Dr. Weiss stated he had no report at this time. Ms. Herman started to speak; however, Mr. Lewis advised that this is the time for Supervisor Reports. Ms. Herman asked to speak about something related to the Airport Review Panel; however, Mr. Lewis denied her request to speak at this time. Ms. Herman asked if any of the other Supervisors felt she should be given the opportunity to make a comment about the Review Panel. Ms. Tyler stated it is Mr. Lewis' decision as he is the Chair, and it is his job to run the meeting. Ms. Tyler added that Ms. Herman always has access to the Board members. Ms. Herman stated this is an extremely time sensitive issue as the meeting is to be held October 23. She stated they have another request to ask the Supervisors to request of Congressman Fitzpatrick before then.

Mr. Grenier stated the Environmental Advisory Council will be presenting a seminar on how to reduce your energy bill on November 10 from 10:00 a.m. to Noon at the Community Center. He stated the EAC is currently reviewing the ELCON Application and he has asked for comments by the end of the year. He stated they may not be able to review the entire Application because they may not be comfortable from a technical perspective, but there are items that they can review. Mr. Grenier stated at the Park & Rec Board they discussed a memo from the insurance company which he feels the Board should discuss in Executive Session.

Ms. Blundi stated since the next meeting of the Financial Advisory Committee was scheduled for Veterans Day, it has been moved to November 5. She stated she is looking forward to hearing about the work that Special Events is doing to honor our Veterans in November.

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

Respectfully Submitted,

Kristin Tyler, Secretary