

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – APRIL 3, 2019

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on April 3, 2019. Mr. Grenier called the meeting to order at 7:33 p.m. and called the Roll.

Those present:

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

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

COMMUNITY ANNOUNCEMENTS

Mr. Grenier stated the Spring, 2019 eWaste Recycling Event will be held May 4, 2019 at William Penn Middle School from 9 a.m. to 12 p.m. He stated those having questions should reach out to the Township staff.

Mr. Grenier stated PAA has their Opening Day this weekend, and they will have a parade on Saturday morning.

Ms. Tyler stated she will have Casey Shaeffer, a Ninth Grader in our community, come in to talk about her annual Kids Carnival. Ms. Tyler stated she raises funds for various non profits, and this year she is raising funds again for a Soldier's Hands which provides skin care to our deployed soldiers and the CTF Foundation as a school mate of hers suffers from that condition. Ms. Tyler stated the Carnival will be held by Silver Lake in back of Edgewood School.

Mr. Grenier stated the LMT Park & Recreation walking group will be holding their first walk of the year on April 6 at 10:30 a.m. He stated those interested should meet at the LMT Community Center parking lot at 1550 Oxford Road. He stated they will walk approximately three to three and a half miles.

Mr. Grenier stated the Lower Makefield Township recycle yard drop off date is April 13. Mr. Ferguson stated you can see the drop-off dates for the rest of the year on the Township Website. Mr. Grenier asked about the time, and Mr. Ferguson stated they will add the times that materials will be accepted. Mr. Grenier stated the Website also shows the acceptable and not acceptable materials.

#### PUBLIC COMMENT

Mr. Harold Kupersmit, 612 B Wren Song Road, stated he has been trying to get Mr. Santarsiero to lift the injunction against him, but he refuses to do so. Mr. Kupersmit stated it is in the Third Circuit Court of Appeals. He noted a number of Federal Representatives he has contacted about a number of issues, but they never get back to him. Mr. Kupersmit also expressed concern with tax laws.

Mr. Hasib Abdur-Rahman stated he represents the Zubaida Foundation on Big Oak Road. He thanked the Lower Makefield Police Department under the direction of Chief Coluzzi on behalf of the Zubaida Foundation. He stated a number of Police Officers met with him to discuss security they have requested as a result of the unfortunate tragedy that happened in New Zealand. Mr. Rahman stated their religious day of worship is on Friday, and they had asked if Officers were able to fit them into their schedule to come by their facility from 1 p.m. to 2 p.m. He stated a few months ago they had skin heads from Newtown, Pennsylvania on their campus. He stated the Zubaida Foundation are here as good neighbors, and he thanked the Police Department. He stated they will have their grand opening some time in June as their facility has been completely renovated, and he will come back to the Board meeting to give the exact date. He stated they would like all the Supervisors and officials as well as the community to attend. He stated if the Board members wish to speak at the grand opening, they will be granted that time.

Mr. Gruen stated he attended the Inter Faith vigil held recently, and it was a wonderful event. Mr. Rahman stated they hope to get more involved in the community. Chief Coluzzi thanked Mr. Rahman for his kind words, and stated they will follow up on those individuals that Mr. Rahman discussed. He stated if they have any other problems, they should contact the Township.

Mr. Robert Abrams, 652 Teich Drive, stated he just received his new sewer bill, and he is very upset since there was an additional 23% to the service charge and an additional 20% to the gallonage charge, which he feels is “absurd.” He stated he looked at the Morrisville Website to see what their numbers were, and they did not get a 20% increase. Mr. Abrams stated Lower Makefield is supporting

Morrisville and paying their share of the expense, and he is bothered by that. He stated the idea that Lower Makefield is going to support all of the surrounding Townships is not right. He stated we should be paying our fair share. He stated there will be a presentation tonight, and he feels it is no different than what happened with the tower. He stated they sold the tower and took the \$2 million, and they did not do anything with it other than “throw it in the General Fund.” Mr. Grenier asked Mr. Abrams to wait until that matter comes up on the Agenda. Mr. Abrams stated he is not speaking about an Agenda item, and he is making a different point. Mr. Abrams stated when the Township starts selling assets, which apparently is what is going to go on here again, they are a place that is in the process of going bankrupt. Mr. Abrams stated if they cannot properly manage the assets, we need to get people within the Township who can.

Mr. Ferguson stated the reason he asked PFM to come in is not because we are not able to manage this efficiently going forward, it is because now we will be mandated by DEP going forward to do upgrades to our system that will amount to tens of millions of dollars in improvements. He stated he is not just recommending to the Board that they hear this discussion to sell an asset so they can build a park or something else, it is because in October he advised the Board that there would need to be a 20+% increase in the sewer rates every year. He stated for every \$600,000 that we need in projects for sewer lining, pump station upgrades, etc. it will require a 10% increase. He stated while he agrees with Mr. Abram’s point about Morrisville, it is not just about Morrisville, it is about our own system, and the repairs and improvements that we have to do.

Mr. Ferguson stated the Sewer Sub Committee and the Sewer Authority have been looking into this issue. He stated the Sewer Sub Committee has specifically been looking at issues regarding whether we continue with Morrisville, whether we participate with them in building a plant, or whether we look at other options like going to Lower Bucks Municipal Authority to take our flow. He stated all of the options, even if we get out of Morrisville, will result in an overall cost of between \$40 million and \$50 million and an increase in the rates of between 60% and 80%. Mr. Ferguson stated that is just that part of it, and then there is our own system that we have to manage. Mr. Ferguson stated after months of conversation with the sewer engineer and the Public Works Director about the costs and how we manage them, they may be advising the public that in five to seven years, the average bill could be \$400 to \$500 a quarter by doing upgrades to the system that we have to do. He stated it is not that they just want to sell the system and let rates “go through the roof.” He stated he will provide to the public a seven year pro forma of the costs that will be incurred and what that translates to in a rate. He stated the first thing they have asked PFM to look at is the idea that they not necessarily sell to the highest bidder, but that they sell for a specific price with the hope being it will be a below market price, and that in exchange, we would be quoting rates. Mr. Ferguson

stated instead of selling the system as has been done in other places systems have been sold for \$70 million or \$80 million, and the ratepayers then are charged higher rates. He stated the idea would be that we would sell for a below market rate with the goal being debt reduction and to have competitive rates. He stated they want to do a side by side comparison. He stated those interested in purchasing the system may be PUC-related companies or larger Municipal Authorities. He stated they want to make an assessment as to whether or not it is in the Township's best interest regarding debt reduction as well as the ratepayers' best interest regarding where the rates are going. He stated every time there are improvements to the sewer system, the costs are spread among 11,000 users; but larger entities would spread those costs over hundreds of thousands of users. Mr. Ferguson stated before they tell people they will have a \$500 a quarter sewer bill, his responsibility is to let PFM examine what the alternatives are so that the Board can make an informed decision.

Mr. Abrams stated he will listen to that presentation; however, he added any growth within the Township appears to be mostly for Senior Citizen, and they are on fixed incomes and will be getting a 25% increase and asking when the increases will stop. Mr. Ferguson stated those increases are not going to stop. Mr. Grenier asked that they discuss this further on the Agenda when they can discuss it in more detail.

Ms. Helen Bosley, 546 Palmer Farm Drive, stated she recently observed a troubling situation involving two Police Officers at the Starbucks at the Kohl's Shopping Center. She stated Tuesday morning the Police had stopped a young man for parking in the no-parking zone in front of Starbucks. She stated she saw the young man emptying the contents of his trunk onto the sidewalk when she approached, and she continued to observe the situation. She stated the young man was on his phone clearly upset and concerned that he would be late for work, and that his belongings from his car were now on the sidewalk. She stated she was told that he was illegally parked. She stated she later determined that the Police asked him if he had drugs or weapons in his car to which he replied "no," and then the Police searched the car anyway. Ms. Bosley stated as part of this process they ran his Driver's License and car Registration, and had determined that his insurance had lapsed and his License was suspended. She stated the young man was then handcuffed and taken to a Police SUV. Ms. Bosley stated she was continuing to observe and ask questions. She stated the young man's female friend had arrived, and the Police allowed him to return to the sidewalk. She stated by this time his car had been put on a tow truck and sent to a towing company in Morrisville. She stated the Police then gave him a ticket and encouraged him to deal with other outstanding issues. She stated the Police Officers' tone had changed; and at one point when they thought she was videotaping, they advised her that she did not have to do that as they were recording on their body cams.

Ms. Bosley stated her “outrage” about this incident is because it was a young person of color who was parked in the no parking zone, and without provocation presumed to have lied to the Police and had his belongings searched. She stated this one incident caused two young persons to be “very late for their jobs and extremely nervous and upset.” She stated it is also expensive as there was a \$195 towing company charge for one hour when they took away his car and it would continue at a rate of \$45 per day for every day that it is not paid. She stated she did not know the cost of the ticket.

Ms. Bosley stated she subsequently monitored the parking in the same no parking zone for an hour and a half observing over ten vehicles illegally parked for an average of four minutes each, and no Police were visible in the area during that time.

Ms. Bosley asked what is the training that our Police Officers receive, and she asked if they have ever taken bias awareness or similar training. She stated she views this incident as “alarming” for the reasons she has noted. She stated she was grateful to have had a person at Starbucks the following day confirm her perception “of what the cops did to that 100 pound young man.” Ms. Bosley stated the person at Starbucks told her “they pushed too far yesterday.” Ms. Bosley stated she thanked that individual for telling her this because it further confirmed what she had seen. Ms. Bosley stated she would like to know “what we are doing, “ since she believes from driving around the Township that there are incidences where “individuals that look different from me seem to be pulled over.”

Chief Coluzzi stated while Ms. Bosley was at the scene, he was not; however, he will pull the reports tomorrow and find out who the Officers were and get a full explanation as to what occurred. Chief Coluzzi cautioned Ms. Bosley and the public not to come to any conclusions based on what was just heard since often things are much different than they may appear or that the Police may know at the onset of an investigation. Chief Coluzzi stated he will look into this and brief the Board on it. He stated if there was any wrongdoing, he will take action; but he would like to wait until we get all the facts.

Ms. Bosley stated: “Officer Coluzzi, that is great.” She stated she also thinks it would be helpful if they took a look at the number of people that have been pulled over anywhere in the Township, but especially in that no parking zone adding she goes there frequently and has seen people parking there, and very few people ever get pulled over. Chief Coluzzi stated that is routinely a problem area, and they get a lot of complaints about people parking in front of those stores adding that it is hard to maneuver in that parking lot to start with. He stated it is a very dangerous parking lot, and with the current events going on all over the world with vehicles and cars parked in front of businesses, there is a push to keep cars moving and not stopping in front of businesses. He stated when someone is parked there and not legal as far

as their Registration, inspection, etc. it puts an added suspicion on that particular individual. He stated the Police at that point were doing what he instructs them to do which is to keep the area clear. He stated they have strict policies on bias policing and are audited every year on the amount of cars that are stopped in the Township, the ethnicity of the individuals, race of the individuals that are stopped, and they are looked at very carefully by a number of different agencies since we are an Accredited Police Department and have to go through these audits each year. He stated no one is stopped in the Township based on anything other than reasonable suspicion by a Police Officer.

Mr. Truelove stated Chief Coluzzi mentioned that the Township Police Department is accredited, and he stated there is a very rigorous process to become accredited; and Chief Coluzzi agreed. Mr. Truelove stated a lot of the process has to do with exactly some of the issues that were raised tonight, and Chief Coluzzi agreed. Mr. Truelove stated there is also a process internally for the Police Chief to receive citizen complaints. Chief Coluzzi stated any complaint they receive by a citizen is taken very seriously, and they fully investigate every complaint by a citizen. Mr. Truelove stated with something like what was raised this evening, the normal process would be for a complaint to be submitted to the Police Department so that it could internally be reviewed, and Chief Coluzzi agreed.

#### APPROVAL OF MINUTES

Ms. Tyler moved, Dr. Weiss seconded and it was unanimously carried to approve the Minutes of March 20, 2019 as written.

#### PFM SEWER PRESENTATION AND DISCUSSION AND APPROVAL OF RESOLUTION NO. 2390 APPROVING THE RETENTION OF PFM FINANCIAL ADVISORS, LLC FOR PHASE I ANALYSIS AND VALUATION OF THE SANITARY SEWER SYSTEM

Mr. Grenier stated he is the Sewer Authority Liaison and a member of the Sewer Sub-Committee, and the Sewer Authority recommended that the Board of Supervisors approve a Resolution to move forward with PFM in the way described previously this evening by Mr. Ferguson.

Mr. Ferguson stated this is not a Resolution to sell the sewer system, and it is only to authorize PFM to do initial data gathering which is in several phases which the PFM representative will describe.

Mr. Grenier stated the Sewer Sub-Committee which include himself and Dr. Weiss, two members of the Sewer Authority, the Sewer engineer, and Township staff has been tasked with reviewing several options to address the Morrisville Municipal Authority's proposed new plant which could cost from \$80 million to \$150 million. Mr. Grenier stated the Sewer Sub-Committee has also been looking at a number of other options including going to Lower Bucks, sending everything to Bucks County, and building our own plant. Mr. Grenier stated the item that they are discussing this evening is one of many options they feel they need to consider as they move forward recognizing how high the sewer bills are currently and where they are going in the near future.

Mr. Ferguson stated neighboring Municipalities with systems not much larger than ours have between fourteen and twenty employees that work and are paid out of the Sewer Fund. He stated in Lower Makefield Township, there are two full-time employees. He also noted that part of the salary of the Public Works Director who dedicates time to the sewer is also paid out of the Sewer fund. He stated there is also a secretarial position. He stated the increases that have been outlined for sewer expenses are not for people to get significant raises, etc. and it was due to some increases from Morrisville but which are limited in the Budget since the Township could not include a Morrisville cost because Morrisville did not provide the Township with their Capital costs in time. Mr. Ferguson stated the increase in rates was related to the aging Township system where there is I & I which gets into the system that makes it more expensive. He stated that is not a problem specific to Lower Makefield, and it is a Bucks County problem; and DEP has mandated that certain repairs must be made on a certain schedule or they will impose fines and prohibit new connections to the system. Mr. Ferguson stated the improvements proposed are being done because it is a system that people rely on and because we are being mandated to do so. Mr. Ferguson stated next year our own improvements to our system will cost between \$1 million and \$1.5 million, and it will require a 30% increase in rates to cover that. Mr. Ferguson stated the reason we are discussing this matter tonight is so that we can consider every option; and if there is an option that is more economical for ratepayers, we should at least consider it.

Mr. Grenier stated a similar option was reviewed approximately ten years ago, and at that time it was decided not to move forward with the sale of the sewer system; and while that may happen this time as well, it is an option that they are reviewing as part of a larger set of options to review.

Mr. Scott Shearer, PFM, was present. Mr. Ferguson stated copies of the presentation are available for the Board and the public. Mr. Shearer stated this Resolution is not to sell the sewer system. He stated this is just the beginning of an exploration process. He stated the Contract before the Board is for the Phase I service which

involves gathering data, getting a base line of the system; and if the Township then decides to move to Phase 2 and Phase 3, they will have Contracts for those at that point. He stated at any point in time along the way, the Township has the right to terminate the process.

Mr. Shearer stated PFM is the number one financial advisor in the Nation. He stated they understand financings very well in the utility section and also do a lot of work in the exploration process when Municipalities are interested in looking into selling their system or purchase a system. He stated this would be a partnership with the Township and their firm as a team approach to make sure all the information is presented so that the Township can make an educated decision.

Mr. Shearer stated Mr. Ferguson and PFM will be running a lot of different models to look at various scenarios including keeping the system, entertaining Capital projects related to Morrisville, going to Lower Bucks, and other alternatives; and the impact they will have on rates. Mr. Shearer stated they will also be looking at what it may look like if the Township moves forward with a potential sale of the system. He stated they will assess the situation and gather information from the Township and the Sewer Authority, look at the current Sewer operations, Capital needs of the system, and the goals. Mr. Shearer stated if they want to move forward with the sale of the system, they will determine a reasonable purchase price and focus on the rates which is what Mr. Ferguson discussed earlier. Mr. Shearer stated if that get to that point, they will then talk to potential partners such as Municipal Authorities or DEP regulated-entities. He stated they would not necessarily be looking for the highest sale price for the Township. He stated they have worked on a number of these around the Commonwealth which are all done a little differently; and he commends the Administration at this initial stage for focusing on the methodology they are looking into.

Mr. Shearer stated when they are doing the initial valuation, they will be talking about rates which is key. He stated they need to determine what to do with the proceeds if they do decide to move forward with the sale, and this could include paying down debt and the impact on the ratepayers within the Township. He stated they will consider what may happen to rates if the Township keeps the system, and what may happen to rates if they decide to sell to different entities.

Mr. Shearer stated if the Township decides they want to move on further with the exploration process, there is a rigorous, transparent process that has worked well for their Municipal clients. He noted Page 6 of the hand-out which outlines the three-phase process adding that at this point, the Contract is only for Phase I. He stated they will focus on this Phase for approximately the next two months working closely with the Township Administration. He stated they will look at

the valuation and operations of the system through an income approach where they look at the revenues and expenses, the cost approach where they look at the assets of the system looking to see what the original costs were and depreciate those costs back, and also look at sales of comparable systems in the market to give an accurate picture of what the system may be worth and then compare that to rates.

Mr. Shearer noted Page 7 of the handout which indicates that for Phase 1 the proposed team will be PFM, the Township, Township solicitor, the Sewer Authority, the Sewer Authority solicitor, and the Sewer Authority engineer. He stated if the Township decides to proceed on to further steps, Page 7 shows who else would be involved. Mr. Shearer discussed a tentative timeline as shown on Page 8 of the handout. He stated for Phase 1, they would be working during April and May, and if the Board wants to go forward with the other steps, that timeline is shown as well.

Mr. Grenier stated at the Sewer Authority meeting as well as when Mr. Shearer met with the Board members individually, they discussed different scenarios and State Acts which have been passed over the past few years that may or may not impact the sale and the schedule; and he asked Mr. Shearer to discuss that in more detail. Mr. Shearer stated Act 12, which is called the Fair Market Value Legislation, was passed in 2016 and it changed the landscape of utility sales in the Commonwealth. He stated regulated entities, which are regulated by the PUC such as Aqua, American, etc. are now able to recover through rates charged to their customers the fair market value of an asset versus when previously it was the book value/depreciated original cost. Mr. Shearer stated the depreciated original cost/book value could be \$10 million but the fair market value may be \$20 million or more. He stated under the prior Legislation, acquisitions were at a lower value; however, now Act 12 is a means by which the regulated companies are able to and have been putting in much stronger Bids because of that Legislation. Mr. Shearer stated the Township may not be taking full advantage of that with this process if the Board decides to move forward because the Township is more focused on the rates as opposed to the purchase price. He stated they have been seeing a lot more Municipalities considering selling their systems. Mr. Shearer stated they have done a number of Phase 1 evaluations for a number of clients; and while some have decided to move forward with Steps 2 and 3, others have not. Mr. Shearer stated Act 12 does have stipulated timelines that must be met.

Mr. Grenier asked what will be delivered to the Township after Phase 1. Mr. Shearer stated it will be a limited scope valuation. He stated this will give an idea as to what the system may be worth, and it will entail looking at rate alternatives under the current system and under a potential sale. He stated this will just be a preliminary analysis because it is just the first step.

Mr. Grenier noted the tentative timeline on Page 8 shows that PFM could make their presentation to the Board in late May, 2019; and he asked if that is still a good date since it is already April 3. Mr. Shearer stated they feel good about that date, and as long as the information is readily available, they feel they can meet that timeline.

Dr. Weiss moved and Ms. Blundi seconded to approve Resolution No. 2390 Approving the Retention of PFM Financial Advisors, LLC for Phase 1 Analysis and Valuation of the Sanitary Sewer System.

Mr. Lewis asked Mr. Ferguson the total Contract value for Phase 1, and Mr. Ferguson stated it is \$7,500. Mr. Lewis stated there is no lock in for Phase 2 or Phase 3 that would require the Township to use PFM, and Mr. Ferguson agreed. Mr. Lewis asked what would the estimated professional services be if they were to use PFM. Mr. Ferguson stated he has a cost estimate from them, and he estimates that if they were to go through with the RFQ process where we qualify firms and inevitably to an RFP where we would seek official proposals, that cost, which would not just be PFM costs but also legal costs and engineering costs, would be approximately \$450,000. Mr. Ferguson stated Mr. Shearer indicated that the Township would not ever realize that bill if we do not follow through with the sale, and that is a risk that PFM is taking on. Mr. Ferguson stated if we went through with the sale, the discussion we would have, if there was to be a fixed-rate sale based on rates, is that we would determine what the fixed-rate sale would be with the assumption being that the Township would include the soft costs in with the sale price; and the Township would not be having that cost directly out of the Sewer fund Budget itself.

Mr. Lewis stated the additional professional services fee is contingent, and he asked if that is a percentage of the deal price. Mr. Ferguson asked if he is asking about the amount he just provided, and Mr. Lewis agreed. Mr. Shearer stated Phase 2 would be an hourly rate, and Phase 3 is a percentage based on the size of the transaction. Mr. Lewis stated if we approve Phase 1 tonight, we are not under any obligation for Phase 2 or Phase 3, and Mr. Shearer agreed. Mr. Ferguson stated they would come back to the Board to take a further action. Mr. Lewis stated the Township is still not obligated to use PFM, and they could RFP that process as well, and Mr. Shearer stated they could.

Mr. Lewis stated they have talked a lot about balance sheet restructuring and this would be a rather large one in terms of our assets. Mr. Lewis stated they have also talked about the valuation of Township-owned property. Mr. Lewis asked if there is some thought strategically that we would come up with a comprehensive balance sheet of the Township in terms of our assets. Mr. Lewis stated the sewer system is one asset the Township owns, and right now we “have it marked at book;” but we do not have a comprehensive “market to market balance sheet” where we have an estimate as to what the assets are worth. Mr. Ferguson stated we have all of our

assets listed that we put on a depreciation schedule for insurance purposes. He stated they set the threshold as far as reporting to \$5,000 and above and those assets would be listed in the asset report. Mr. Lewis stated those are all marked at book value, and Mr. Ferguson agreed. Mr. Lewis stated we do not have a rough estimate as to what the market value is for some of our assets. Mr. Ferguson stated while the sewer system is probably one of the largest Township assets, if there is a market value to a ball field or a dump truck, etc. that is not necessarily a practical exercise to engage in. He stated he feels the sewer system is probably the biggest asset we have other than our grounds/buildings.

Ms. Tyler asked what the \$7,500 will “buy us” from PFM. Mr. Shearer stated the main part will be the limited scope valuation. He stated depending on the information gathered, they will have a number or a range based on the three different methodologies he noted – income approach, cost approach, and market approach; and they will advise what they feel the fair market value of the system is. He stated they will also start talking about rates so they will supply various information as to what the rates look like and what the rates could look like from potential interested parties. He stated after reviewing the initial data, they will have discussions with the Township Administration, and there may be other analyses they will want to perform which they feel will be helpful to the Township in order to make the decision whether they want to go to Step 2 or not or if they are comfortable with stopping it at Step 3.

Ms. Tyler asked how many people and how much time do they feel will be invested in Phase 1. Mr. Shearer stated Page 4 shows the four individuals who will be on the team including himself. He stated they have a flat fee of \$7,500 in the Contract. Ms. Tyler asked how much time they anticipate putting in, and Mr. Shearer stated it could be forty hours or a lot more. Mr. Ferguson stated some of that will depend on how easily accessible the Township’s information is in order for PFM to make the valuation.

Ms. Tyler asked if a conflict search was done, and she asked if PFM has represented Morrisville; and Mr. Shearer stated they have not. Ms. Tyler asked if they would have an occasion to have represented any of the potential private buyers, and Mr. Shearer stated they are only Municipal. Ms. Tyler asked about Bucks County Water and Sewer, and Mr. Shearer stated they do not represent Bucks County Water and Sewer.

Mr. Harold Kupersmit stated he is concerned about the sewer situation, and he has done extensive research World-wide about this problem. He stated they need to “scrap all this” and reinvent the technology at half the cost. He stated a new plant is \$140 million, and whatever they do the sewer rates are going to “sky rocket.”

Mr. Kupersmit asked if the technology can be invented that reduces the cost of a new facility and “kills the super bugs” at the same time. Mr. Kupersmit stated he sent information to “a dozen outfits,” and he got no responses. He stated it makes no sense to put \$50 million to \$60 million into an aging facility, and they need to buy a new facility like he has outlined.

Mr. Peter LaChance stated he is Pennsylvania State Constable elected in Lower Makefield and prefers not to state his address as he is law enforcement. He stated he is a proponent of building interceptors and sending our sanitary sewage down to Bucks County which is a better run system and “a lot cheaper.” He stated he knows what is going on in Morrisville, and he used to run a wastewater treatment and collection system/distribution system engineering firm. Mr. LaChance stated there is “no way that what Morrisville wants to do should cost anywhere near that much.” Mr. LaChance stated his company did a lot of work valuing large sewage system and large water distribution systems, plants, and pumping stations. He stated 80% of the problems are underground, and 80% of the value is underground. He asked if they are going to at some point do full asset management looking at the assets under the ground and making a reasonable estimate as to what it is going to cost to do the renovations. He stated he knows that many of our sewers do not need anything, but there will be some that do; and he does not see anything in Phase 1 that addresses that. He stated he does not see that it is addressed in Phase 2 since they are only talking about \$20,000; and he would charge hundreds of thousands of dollar to do that. Mr. LaChance stated he does not know if the Township’s engineer, who will be working with them in Phase 3 is qualified to do; and he added it seems late to be doing that work.

Mr. LaChance stated he has heard nothing about the potential of bidding out for operations contracting instead of purchase of the asset. He stated it is popular in America and Canada not to sell your assets but to have a privatizer operate the facility, put together their own table of Capital needs, and sell the owners on what needs to be done, and the owner would then make approvals. Mr. LaChance stated he feels this is a situation where we are going to be potentially putting the system out to bid but not knowing what the “large uncertainty is that deals with the payment of treatment.” He stated we do not know who we are sending it to or what we are going to pay for it. He stated if he were to buy this as a privatizer, he feels this is a huge uncertainty. Mr. LaChance stated he feels that when there is an uncertainty, the best thing to do is have a Management Contract and not an Asset sale; and do that for three to seven years, and at the end of that consider whether or not to sell since by the end of that the uncertainties will hopefully be diminished.

Mr. Ferguson stated the 537 Plan was approved over the last six months, and most of the system needs substantial improvements. He stated Ebert Engineering has been going through all of the work. Mr. Ferguson stated there is pump station work that has been budgeted for which is underway, and there are sewer linings in different quadrants that Mr. Ebert has presented to the Sewer Authority. He stated there is also testing going on with regard to I & I, and PFM will be utilizing this information. Mr. Ferguson stated all of this will be disclosed so that someone potentially bidding on the system would be aware of everything. Mr. Ferguson stated we are working internally on what are the expected mandated improvements we will have particularly with regard to I & I, sewer lining, and upgrades that DEP will be requiring the Township to do; and we will be reporting on that in the 537 Plan. Mr. Ferguson stated this is why he feels we will be able to come up with a very specific outline of what we know and what we expect to have to invest in the system.

Mr. Grenier stated as part of the 537 Plan we are mandated to do certain projects, and we have a list of the projects we need to do over the next several years. Mr. Grenier stated there are costs associated with these projects that our Sewer engineer has itemized that have been discussed with the Sewer Authority. Mr. Grenier stated this allows Mr. Ferguson and the staff to do a pro forma in terms of those projects and what impact that will have on our sewer rates relative to flows. He stated all of that data is being garnered right now in a parallel path with what PFM is doing. He stated the goal is to bring everything together about the same time so the Board can make a truly informed opinion.

Mr. Shearer stated those data points will be used for the Phase 1 study, and they will work with the Township Manager and the Sewer engineer looking at expected Capital projects for the collection system which will be built into their models. He stated if the Board decides they want to move to Step 2 there is an RFQ process to see who is interested, and those interested in the system would then start doing an extreme amount of due diligence on the system. Mr. Shearer stated Mr. LaChance has raised the issue about the uncertainty as to where the flows will ultimately be going; and if we get to a further stage, they will ask the interested parties what it does to their interest in the system and the value and whether they need certainty if they are bidding or if they are comfortable with where things are. He stated they would also ask the bidders what other ideas they have that may be worthwhile to consider.

Mr. Ferguson asked Mr. Shearer in other transactions that have taken place in Bucks and Montgomery County is it uncommon to have a collection system where there are other systems they are going to; and Mr. Shearer stated it is very common. Mr. Shearer stated many others have flows going to different treatment plants from the same collection system.

Mr. Lewis stated it is his understanding that when the Township looked at this ten years ago, the sewer system was relatively new compared to other Municipalities; and at that time it probably demanded some degree of premium. He stated obviously the amount and investment we have made since that ten year period will be coming out in the Phase 1 analysis. He stated Mr. LaChance did raise the option of an Operating Agreement as opposed to an outright sale of the asset; and that might achieve some of our aims in terms of putting us in a position to get economies of scale with an operator as opposed to selling the asset outright. Mr. Lewis asked if that would be reviewed in Phase 1, and Mr. Shearer stated they would explore that as part of Phase 1 as they have done that for some of their other clients. He stated an O & M Contract might fit in with the Township's goals.

Mr. Lewis asked what he feels some of the trade offs are of an O & M Contract versus an outright sale generally. Mr. Shearer stated they need to determine the end goal. He stated if they are looking to generate some amount of proceeds in order to be able to defease an ample amount of the Township's debt and free up cash flow going forward typically an O & M Agreement is not necessarily the best option for that; however, they are not ruling anything out. Mr. Lewis stated they were talking about Balance Sheet restructuring, and Mr. Shearer indicated this was a way to offset current long-term debt that the Township has. Mr. Lewis asked if there would be other opportunities to address that situation absent the sale of the Sewer system. Mr. Shearer asked if Mr. Lewis is referring to refinancing long-term debt, and Mr. Lewis agreed. Mr. Shearer stated they would be working with Mr. Ferguson and others in the PFM organization to look at that option as well. Mr. Lewis stated having this information would give the Board a choice in terms of other options and total costs.

Mr. Zachary Rubin, 1661 Covington Road, asked Mr. Shearer to go into more detail about the 2016 Act 12. Mr. Rubin stated when they were trying to sell the sewer system ten years ago Philadelphia Suburban, which had changed to Aqua America, promised that they would give a certain amount of money for the sewer system and there would be a rate freeze. Mr. Rubin stated those discussions were proceeding along positive lines for the sale until someone asked Aqua America how they would finance the purchase of the system, and they indicated they would go to the Bond market to borrow the money. Mr. Rubin stated the question was who would be responsible for the debt service, and Aqua stated it would be the ratepayers and not the shareholders of this publicly-held company. Mr. Rubin stated since Act 12, the ratepayers may not be responsible for the cost plus the debt service. He stated the cost might be more because it is market value and not purchase value. Mr. Shearer stated that could be an option, but based on preliminary discussions and the Township's initial thinking, if a sale continues to be explored, they may decide not to capitalize on the full market value of the system but rather look at something more moderated to balance a much lower rate.

Mr. Shearer stated this is something that they would look at if they get further along. Mr. Rubin stated Aqua America had indicated that after the rate freeze they could not keep raising the rates because they were regulated by the PUC. Mr. Rubin stated the Water Company is regulated by the PUC; but he does not believe the PUC is in the best interest of the rate payers/customers, and he feels they favor the companies that they are supposed to regulate.

Mr. Ferguson stated one of the things that Mr. Shearer discussed with the Sewer Authority and the staff about is that as part of the RFQ process the Board may elect not to include companies like Aqua or Pennsylvania American Water and limit it to only Municipal Authorities for some of the reasons Mr. Rubin has stated. Mr. Ferguson stated they have put forth the idea that it would be below market but would have savings for ratepayers; and we would be asking PFM if that could work and would it make sense to have this targeted as an RFP or not. Mr. Ferguson stated he feels PFM will come back with an outline of the pros and cons of that approach and how that could work so that the Board could make a decision going forward on those issues; and Mr. Shearer agreed.

Mr. Lewis asked if the Township would potentially open itself up to litigation if they allow bidding by only certain types of companies. He stated he feels they would need to be explicit as to why they are doing that. He stated he feels they should get legal advice on that. Mr. Ferguson stated he believes that Mr. Shearer had pointed out that they have done this in other sales where you rule out entities that are not in your interest as participants in the Bid since a PUC company may indicate that they cannot quote a rate for five or seven years; and it may therefore be limited to MMA, Bucks County Water and Sewer, etc. Mr. Ferguson stated part of the RFP process would be to report back to the Board on those findings; and that if we want to continue with the process there would be a limited pool and they would discuss the implications of doing that. Mr. Ferguson advised that if we go to an RFP that does not mean it has been approved.

Mr. Lewis stated we need to consider the outcome of this, and potentially we are looking for insurance for ratepayers; and depending on how the Agreement is structured, ratepayers could get insurance on a portion of what the rate increase would be. He stated there is also potentially value in having someone who has scale operate the sewer system, and Mr. Shearer agreed. Mr. Lewis stated someone who has scale would have a lower cost of ownership than the Township because it would be 11,000 households in the Township versus a couple hundred thousand households. Mr. Shearer stated Act 11 was approved prior to Act 12 which allows the regulated entities to not only spread costs over their current wastewater customers, but they could also elect to spread it over their larger customer base including their water customers as well which would be a much wider base.

Mr. Scott Ferrante, 2205 Brookhaven Drive, stated he would encourage the Board of Supervisors if they move forward to Phase 2 to strike a competitive range so that they are only selling it to particular entities which could help keep rates lower. He stated at the Sewer Authority meeting it was noted that the cost of Phase 2 which would be billed hourly was estimated to be \$20,000. Mr. Shearer stated that would not be PFM's fee, and that would be for some of the other professionals involved.

Ms. Tyler stated she understood that Phase 2 fees were \$450,000; and Mr. Shearer stated the total amount of fees would be approximately \$450,000, and that would include Phase 1, Phase 2, and Phase 3, and would be for all parties involved and not just PFM. Mr. Ferguson stated they had estimated market rate costs for engineering and legal. Mr. Ferguson stated even if they did not have PFM costs, there are still other soft cost such as costs from Mr. Truelove, the sewer engineer, and others that the Township would have to bear.

Mr. Ferrante asked if PFM is presently representing Aqua America anywhere in the State of Pennsylvania, and Mr. Shearer stated they are not. Mr. Ferrante asked if Aqua wins the majority of the solicitations PFM has issued in southeast Pennsylvania; and Mr. Shearer stated it varies, and Bucks County Water and Sewer Authority, American Water, and Aqua have purchased systems.

Mr. Robert Abrams stated Mr. Ferguson stated two people are allocated to the Sewer system, and Mr. Ferguson stated there are two laborers; and Mr. Abrams asked if the system is wearing out or is it from lack of maintenance. He stated if our system has not been maintained properly because there were not enough people, that is on us; however, if it is wearing out because it is old, that is different. Mr. Abrams stated if it could be maintained over time with the proper people maintaining it who have the expertise and the equipment to repair and replace, that would be the way to go. Mr. Abrams stated if the system has worn out, the Township would not have the ability to dig it all up and replace it. He stated the management avenue should be explored since he feels the system is salvageable; and for the long-term benefit, it would be better for the Township to own it and control it since once it is sold, we lose control.

Mr. LaChance stated the private sector also does O & M Contracts and that is non-regulated. He cautioned the Board that if they are looking at an O & M situation, it does not matter who the bidder is, and they should take all bidders. He stated if they are looking at a sale, he understands the concern with regard to the private sector and losing control over rates; however, Mr. LaChance stated his firm worked only with privatizers in Canada and only with Municipalities in America because of the conflict potential. He stated his opinion is that the private sector does a better job, and we would not have the maintenance issues that we have now. He stated there are a lot of advantages in looking at the private sector.

Ms. Blundi stated what they are doing is what the Board has been doing for the year she has been on the Board which is exploring different avenues to deal with a very difficult situation. She stated she is in favor of proceeding with this because she wants more information and more options so that the Board can make the best decision possible.

Ms. Tyler stated language should be included in the last “Whereas” for a not to exceed flat fee of \$7,500. Mr. Ferguson stated they do have a pricing proposal from PFM, but they could include that language in the Resolution.

Mr. Truelove stated the last Whereas paragraph after “sewer system” should change the period to a common and state “for a fee not to exceed \$7,500.

Dr. Weiss agreed to accept the amendment, and Ms. Blundi seconded the amendment, and the Motion as amended carried unanimously.

#### REMARKS BY CHIEF COLUZZI IN RESPONSE TO PRIOR PUBLIC COMMENTS MADE BY MS. HELEN BOSLEY

Chief Coluzzi stated earlier this evening a resident spoke about the Police Department and accused Officers of racial bias. Chief Coluzzi stated the Commanders were able to find out what happened, reviewed reports, and looked at video footage of the incident. Chief Coluzzi stated the Officer was patrolling Kohl’s Shopping Center and saw a vehicle parked in the fire zone. He went to investigate that vehicle which was unoccupied, and ran the tag, and found that the tag was suspended and the vehicle was not insured. Chief Coluzzi stated at that moment an individual approached and the Officer found that individual was wanted on six traffic Warrants and had two additional Warrants pending. Chief Coluzzi stated he explained to the individual that he had to call the Courts that the Warrants were held in to see if those Judges wanted that individual immediately taken down since oftentimes a Judge will immediately want an individual brought before them and other times Judges and Courts will ask that the individual come at a later date and will give them a date. Chief Coluzzi stated the Officer found that the individual was under a suspended License, so he was not legitimately able to drive the vehicle. Chief Coluzzi stated the Officer placed the individual in handcuffs and placed him in the Police vehicle and contacted all of the Courts, and it was determined that the Courts did not want him immediately brought down but provided dates; and the Officer furnished this individual with the Court dates.

Chief Coluzzi stated at that time the individual asked the Officer if he could take personal belongings from the vehicle. Chief Coluzzi stated Ms. Bosley had inferred that the Officer searched the individual’s trunk; however, the Officer allowed the

individual to take personal items out of the vehicle before the vehicle was towed. The operator of the vehicle put those items on the sidewalk until he could get a ride. Chief Coluzzi stated when his ride came, the Officer released the individual and gave him the dates to go to Court. Chief Coluzzi stated a female friend of the individual came and was very polite and apologetic to the Officers and thanked them and drove the individual away. The car was towed, and the Officers left the scene.

Chief Coluzzi stated he is confident that Ms. Bosley was there and heard the whole situation and knew that the Officers were not searching the trunk, and that the Officers allowed him to take items from his car; however, Ms. Bosley came to the meeting this evening for a reason he does not know and accused the Police Officers of racial bias policing when it did not happen at all the way that she reported it. Chief Coluzzi stated he wanted the Board and the public to know this. He stated it is not his nature to engage in people involving Police matters or investigations in public; however, he feels responsible to the Board and to the residents to explain what happened. He added that oftentimes the Police are faced with these types of complaints and allegations which are totally unfounded.

Ms. Tyler thanked Chief Coluzzi and the attentive Officers.

#### ENGINEER'S REPORT

Mr. Pockl stated he provided his Report to the Board in their packet.

Mr. Pockl stated with regard to the Pool complex repairs, the demolition of the perimeter drain and the walkways over top of the piping that were to be replaced has been completed. He stated they are meeting with the contractor on site tomorrow to outline the limits of the pool wall repairs, and the pool wall repairs will begin subsequent to that meeting. Mr. Pockl stated he has been on site and observed the pool wall itself once the drain was removed and demolished, and the pool wall itself looked intact although there are some minor cracks in several locations; but it is encouraging to know that the wall remains intact and has not crumbled under the demolition process.

Ms. Tyler stated she thought the whole reason they were doing this replacement was because they were told that the wall was crumbling and had to be replaced. Mr. Ferguson stated the drain and the gutters under the filter is what is being replaced as part of the project. Mr. Pockl stated the reason they undertook the project was that they were losing water out of the pool on a daily basis throughout the summer, and that was through a number of areas whether it was cracks in the pool wall, cracks within the perimeter drain system which was a concrete system that they did not have access to without demolition. He stated if there were cracks

within that drainage systems or leaks or openings at the joints of the drainage pipes or cracks within the drainage pipe that would mean loss of water within the pool system as well. Mr. Pockl stated there are still cracks within the wall, and that is what they are going to identify tomorrow to determine the limits of what needs to be repaired; but it is not a situation where the wall is falling down.

Ms. Tyler stated she agrees that is good news, and she asked if the cost of the project will come down now since she felt they were contemplating replacement of the wall. Mr. Pockl stated he will have a more definitive answer for that after they identify the limits of the wall repairs.

Mr. Pockl stated the thirty-day Responsible Contractor Ordinance period will be up on April 18 for the 2019 Township Road Program, so the Contract could be awarded on April 18. Mr. Grenier asked if the Board needs to vote on that, and Mr. Pockl stated the next Board meeting after April 18 would be May 7. Mr. Ferguson asked Mr. Truelove if nothing comes up within the thirty days does that mean it is awarded or does the Board have to vote to award. Mr. Truelove stated the Board should vote to award. Mr. Lewis asked if the Board could vote to award tonight contingent upon completing the thirty days. Mr. Pockl stated they could vote to award with that contingent at the Board's next meeting on April 17. Mr. Ferguson stated in the future he feels when they issue a Notice of Intent they should do it with the contingency that the award be granted at the end of the thirty-day period unless some other action is taken by the Board. Mr. Grenier stated they would not want to lose two weeks because of a delay of a day. Mr. Pockl stated there is sufficient time. He stated once the project is awarded, they will draw up Contracts and submittals will be sent to the Township so he does not believe two weeks will have an impact on the construction schedule.

Mr. Pockl stated with regard to the Woodside Road bike path, they reviewed the Minutes of the Delaware Valley Regional Planning Commission where they awarded Grants to twenty-two different bike path projects; but Lower Makefield's was not one of them. Mr. Pockl stated he spoke with our Grant coordinator from the DVRPC to see what was discussed among the Committee that makes the decision, and Mr. Pockl stated he sent an e-mail to the Township advising what was discussed. Mr. Grenier stated one of the comments was that there were some things the DVRPC wanted Lower Makefield to look at, but there is also another potential funding source; and Mr. Pockl stated there is a Federal Grant available in September that could be a potential source of revenue for this type of project. Mr. Ferguson stated he thinks in the meantime there is work that the Township can do. He stated Mr. Majewski is arranging a meeting with the DVRPC to discuss certain options, and they will report on this to the Board.

Mr. Pockl stated with regard to the Memorial Park improvements, they have received the drawing files from the previous engineer which they are reviewing and incorporating the pickleball courts into the design. He stated they will schedule a meeting with the Grant coordinator and the Township to review the Final Plan design, and they anticipate that happening next week.

Mr. Pockl stated they are going to begin surveying next week on drainage improvements at the intersection of Laurel Lane and Stackhouse Drive. Mr. Ferguson stated this is our first MS4 project that was budgeted for this year.

Mr. Grenier stated with regard to the 2018 Township Road Program, Mr. Pockl was going to provide recommendations on the Oxford Valley road pavement issues. Mr. Pockl stated he was in the process of drafting an e-mail to the Public Works Director on his findings on this, but was pulled out to a meeting on Scammel's Corner so he will have something to the Township later this week. Mr. Ferguson agreed to report to the Board on that.

#### Approval of Escrow Release #2 for Big Oak Partners, L.P.

Mr. Pockl stated this is a request for an Escrow Release in the amount of \$4,227. He stated after this Release the total amount of financial security remaining would be over \$1.8 million.

Dr. Weiss moved, Ms. Tyler seconded and it was unanimously carried to approve Escrow Release #2 for Big Oak Partners, L.P.

Mr. Pockl stated the Freeman's Farm Development has requested Dedication, and they will be in the process of reaching out to the developer to let them know what is still outstanding and what is required by the Township prior to Dedication.

#### PROJECT UPDATES

Mr. Ferguson stated he forwarded the Board a report on the Comprehensive Master Plan that indicated that should be through the Bucks County Planning Commission in the next several weeks, and will then be back before the Township for consideration. Mr. Ferguson stated he put an e-mail together with a brief overview which had been forwarded to the Board earlier this week. Mr. Ferguson stated at the next meeting he believes he will have a more specific public update on the process.

MANAGER'S REPORT

Approve Accepting Aquatic Facility Design, Inc. Quote Including Alternate #1 at a Total Cost of \$33,000

Mr. Ferguson stated Aquatic Facility Design was the low bidder with the Base Bid being \$24,850. He stated they had an Alternate which the Township felt was useful which was to take core samplings of all of the other pools to assess their structural integrity. He stated that would be done in the fall to give an assessment on the need for capital repairs to those pools, and there would be a cost savings in terms of doing it as part of the study. Mr. Ferguson stated \$25,000 was budgeted; and while the Bid was under that amount, the combination of the Base Bid and the Alternate would push the cost over to \$33,000. Mr. Ferguson stated the recommendation is to consider that so that we will know what capital repairs we may have to consider going forward.

Ms. Tyler moved and Ms. Blundi seconded to accept Aquatic Facility Design Inc. quote including Alternate #1 at a total cost of \$33,000 as outlined by the Township Manager.

Mr. Lewis asked what is done after they drill the holes; and Mr. Ferguson stated the holes are relatively small, and they will then patch those holes themselves.

Motion carried unanimously.

Accept Bid for Asphalt and Stone Materials Through Bucks County Consortium

Mr. Ferguson stated the Bucks County Consortium puts out Bids several times a year for various materials, and he is asking for approval to accept the Bid for asphalt and stone materials through Bucks County Consortium. Mr. Ferguson reviewed the various Bids with quotes for pick up of materials and delivering the materials.

Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried to accept the Bids for asphalt and stone materials through Bucks County Consortium.

Mr. Grenier asked Mr. Ferguson for an update on Pennsylvania American Water; and Mr. Ferguson stated he spoke to them recently, and the report they were waiting for has been signed off on by DEP and the PUC. Mr. Ferguson stated he has a meeting with Pennsylvania American Water next week, and he anticipates that they will attend a Board meeting in May. Mr. Ferguson stated he hopes to advise the Board and public the specific date at the April 17 meeting.

Ms. Tyler stated she received a text from a resident asking for an update on the Makefield Road School crossing. Mr. Pockl stated there are three punch list items that the contractor still has to address. He stated one is the handicap ramp at the intersection of Schuyler and Quincy which is the one they were going to start on this week; and while no one had started on that yet, he will follow up with the contractor. He stated he anticipates that work will only take three to four days. He stated they were then going to move over to Makefield Road to start that work.

#### SOLICITOR'S REPORT

Mr. Truelove stated the Board met in Executive Session commencing at 6:30 p.m. and items of litigation and informational items were discussed.

#### Approve Advertising Ordinance Establishing Protection for Lower Makefield Township Heritage Trees

Mr. Truelove stated this matter was discussed a few weeks ago when Mr. Bray and others from the EAC were present to discuss its purpose. Mr. Truelove stated it is a voluntary program for homeowners who may qualify. Mr. Truelove stated there were some appropriate suggestions primarily from Ms. Tyler to clear up some language as well as some other changes. Mr. Truelove stated the most significant changes to this version to be advertised is in the enforcement area where there was discussion as to who would be the entity that would be responsible; and at that time it was between the Zoning, Inspection, Planning Department and the EAC. Mr. Truelove stated at the suggestion of the Board and further review it was decided to substitute the term, "Township," which would give more flexibility so that in the future they could determine the mechanism for enforcement.

Mr. Truelove stated in 185-9 they have left blank the amount of the fine per violation as that had not been determined. Mr. Truelove stated they would not have to decide that amount tonight, and they could do that in the final version of the Ordinance. He stated the Board should consider the fine to be a not to exceed amount which would provide flexibility.

Ms. Tyler moved and Ms. Blundi seconded to advertise the Heritage Tree Ordinance as described by the Township solicitor.

Mr. Grenier stated the original Ordinance was drafted by the EAC, and then there were edits by the EAC over the course of several months as well as from the Planning Commission. He stated it has come before the Board for the second time with helpful edits made this time as well.

Mr. Alan Dresser, 1907 Linburk Drive, stated there will be a packet with the Heritage Tree Nomination form which is easy to understand and a Consent to Publish Form. He asked if there is a way they could have an example of what a Restrictive Covenant Deed looks like. Mr. Truelove stated a Deed Restriction would have the survey information, metes and bounds description, and some other information to identify the subject tree. Mr. Grenier asked if they would have to attach that to the Ordinance or could they have it as a reference document, and Mr. Dresser stated it would just be a reference document. Mr. Truelove stated that would be better since if was in the Ordinance and something changed, it would be a more cumbersome process to change the Ordinance.

Ms. Tyler stated she feels people should seek legal advice, and the Township should not be giving them legal advice on putting Deed Restrictions on their properties. Mr. Grenier agreed. Mr. Dresser stated they could include a note to seek legal advice on the example.

Mr. Dresser stated the Board was talking about 185-9 with regard to the enforcement where no value has been shown. He stated he feels they should re-word the previous sentence regarding replacement, and he feels it should state, "and shall provide for the replacement value of each tree removed or heavily damaged." He stated the way it is written now, if someone takes down a 200 year old oak tree and puts in an oak sampling, that would have been considered replacing the tree. He feels replacement value should be included or the fine. Mr. Truelove stated the fine is to be deposited into the Tree Bank Account which he feels would be the replacement value. Mr. Dresser stated that would be fine, but he feels it should indicate that the replacement value is the fine. Ms. Tyler stated she believes what is written in very clear and the valuation process is explained.

Mr. Grenier asked if there would be a problem adding the number for the fine between advertising and the final approval; and Mr. Truelove stated he does not feel that is an issue since there is an intent to include a number there. Mr. Grenier asked who they would ask to recommend a number. Ms. Tyler stated it would have to correlate to the replacement value. She stated if they took down a 4' caliper tree, there would be a value associated with that. She stated if they do not get the correct number, everyone will decide to pay the fine since it would be less. Ms. Tyler stated she feels some examples of what the number should be should be considered. Mr. Grenier stated possibly Mr. Majewski could provide the Board with a suggested number using the Tree Replacement Ordinance.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated he probably has at least one tree on his property that would fall under this program. He stated he is trying to determine how this Ordinance would impact him. Mr. Truelove stated it is a voluntary program, and the homeowner would decide if they want to be part of it.

Mr. Costello stated if the Township does not clearly communicate the benefits of this program to the residents since it could include seeking an attorney and changing their Deeds, he does not know how successful it will be. Ms. Tyler stated she feels the EAC would be tasked with that. Ms. Costello stated this would also place a restriction on the property when you want to sell your home. Mr. Grenier stated some people feel very strongly about preservation of their land or certain parts of it. Mr. Grenier stated he agrees with Ms. Tyler that the EAC would probably take the lead in promoting this.

Motion carried unanimously.

#### ZONING HEARING BOARD MATTERS

With regard to the Chichi E. Ahia Variance request for the property located at 1984 Amber Drive in order to permit pygmy goats on less than the required five acre parcel, Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried that the Township participate.

With regard to the CRBE, Inc. Variance request for the property located at 777 Township line Road, Mr. Truelove stated this building is where his office is located, so if the Board would like to do something other than defer this to the Zoning Hearing Board, they will need to appoint different counsel. He stated the request is to permit replacement of an existing sign with internally-lit monument sign. He added that the building across the street from this building had a similar Variance granted approximately six to twelve months ago. The Board agreed to leave this matter to the Zoning Hearing Board.

With regard to the Jared Hopkins Variance request for the property located at 1395 Heller Drive in order to permit construction of a fence within an easement, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the NVR, Inc. t/a Ryan Homes Variance request for the property located at the north side of Big Oak Road, west of its intersection with Oxford Valley Road in order to permit construction of decks on Units 1 through 13 of the complex resulting in encroachment into the collector road setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Gregory R. Wold Variance request for the property located at 8 South Homestead Drive in order to permit construction of a paver pad/driveway resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing board.

## DISCUSSION ITEMS

Discussion of Potential Changes to Township Code Chapter 147 Peddling and Soliciting (Ordinance No. 276)

Mr. Grenier stated they have received a lot of questions recently regarding solicitations in the neighborhoods. Mr. Grenier stated there is an existing Peddling and Soliciting Ordinance which distinguishes between private peddlers and public solicitors, which would be those running for Office or working for a 501C3 who are not subject to much of the existing Ordinance. Mr. Grenier stated for the peddlers, they are subject to a Permit program that the Police enforce. Mr. Grenier stated the existing Ordinance limits the hours from 9 a.m. to 9 p.m.

Mr. Grenier stated he and other Board members have received comments and questions asking the Board to address the growing solicitation problem. Mr. Grenier stated they are also aware of First Amendment Rights and what we can and cannot address with the Ordinance. He stated there have been requests to limit the time to from dawn to dusk as was done with some contractors, and others have asked that it be limited to 7 p.m. although he does not know if that is feasible. Mr. Truelove stated for those not subject to the Permit requirements, they would be exempt anyway unless the Board wants to require that anyone involved in a door-to-door activity be limited to those hours. He stated for those who are currently supposed to be Licensed, he does not feel there is any limitation with reducing the hours somewhat unless they would make it too onerous such as permitting just a two-hour time limit. Mr. Truelove stated currently in the Township there are limits on noise and times when trash haulers can make collections.

Mr. Truelove stated the most important thing is the reporting factor; and if the Police are to enforce this, they need to get reports from the residents indicating there are people in the neighborhood going door to door without the required License and request the Police to come out to check into it. Mr. Truelove stated the language in the existing Ordinance, except for possibly the hours this is permitted, seems to cover most of the concerns that people have. Mr. Truelove stated he would take suggestions and do what they can to modify the Ordinance if necessary being mindful of what the potential restrictions might be.

Mr. Grenier stated he has done some research on this, and it seems if someone were to put up a “No Solicitation” sign, people have to respect that and cannot knock on your door. Mr. Truelove stated he would generally agree with this since it would be private property. Chief Coluzzi stated he believes that is correct, and he believes that if that is mentioned in an Ordinance, that even further strengthens it, and you

cannot trespass. Chief Coluzzi stated someone could put up a sign that says “No Solicitation” and put under it “political, religious, or otherwise;” and they have to abide by that. Chief Coluzzi stated those signs are enforceable.

Mr. Grenier stated a new trend among neighboring Townships is to have a No Solicitation Registry. Mr. Truelove stated this would be similar to a Do Not Call Registry. Chief Coluzzi stated he does not know how enforceable or practical that would be from an enforcement standpoint to give out a list to the solicitors of where they cannot go. He added that the problem with solicitors is that they do not obey the Ordinance anyway. Chief Coluzzi stated he believes the sign is more effective. He also stated he believes that they could restrict the time although you cannot restrict times on political canvassers, and they are allowed to go from 9 a.m. to 9 p.m. He stated for non-profits and regular solicitors you can restrict the time.

Mr. Ferguson stated Doylestown has the No Solicitation Registry which he is on, and solicitors still knock on their door. He stated when he questions them, they advise that they have a Permit; and while they know there are houses on the list, they still knock on the door. Mr. Ferguson stated he has been told that list is under legal review whether that can be enforced.

Mr. Truelove stated he could contact the attorneys for the surrounding Municipalities to see what their experience has been. Mr. Truelove stated he would recommend to the residents that they contact the Police if they feel they have been detrimentally impacted by solicitors. Mr. Grenier stated he has had unlicensed solicitors at his home recently, and he did call the Police and they came shortly thereafter; so he feels the current process works well other than he feels 9:00 p.m. is too late especially when there are young children in the home.

Mr. Lewis stated he is a frequent caller to the Police about this, and he has taken pictures of solicitors. He stated he asks for the Permit, and usually they do not have a Permit or say they have to share the Permit with other solicitors. Mr. Lewis stated Power Windows and Verizon Fios have been egregious in this area in trying to get them to comply with our laws. Mr. Lewis asked if we have taken people to Court over this or are we just stopping people. Chief Coluzzi stated after a second offense, they are cited. Mr. Lewis asked if they go against the company itself or just the solicitors since Verizon outsources that. Chief Coluzzi stated he does not recall that specifically although he does know that there are a lot of Verizon solicitors; however, only three are listed. Mr. Lewis stated they claim that right now there is only one that is active. Mr. Lewis stated they seem to be sharing Permits, and they do not fill out Permits for each individual solicitor so it is a challenge with enforcement.

Chief Coluzzi stated he knows that Power Windows and Siding were using very aggressive tactics with our residents, and they laid the heaviest fine they could on the company. He stated it was very difficult to get them into Court although they did pursue it, and the company finally stopped. He stated occasionally they come back, but they come back under a different name.

Mr. Lewis asked Chief Coluzzi what the residents should do if a solicitor comes to their door. Chief Coluzzi stated they should first ask to see the Permit. He stated what the Permit looks like is on the Website. Chief Coluzzi stated if they cannot produce a Permit, the resident should call the Police right away. Mr. Lewis asked if they should call the non-emergency number; and Chief Coluzzi stated sometimes it is necessary to dial 911 to get the Police out quicker. He stated pictures of the solicitors from residents are helpful. Mr. Lewis stated if he provided pictures of an unauthorized solicitor from Verizon, and they admit they did not have adequate Permits, Permits could be denied in the future; and Chief Coluzzi agreed they could be based on falsification.

Mr. Lewis stated he has done some research on the non-solicitation registry with Falls, and they have 1,768 residents who are members of the registry; however, he feels the challenge is that there is not an easy way to register, and he feels they should ramp up enforcement first. Chief Coluzzi agreed.

Ms. Tyler stated she had a call from a neighbor about an aggressive solicitor in their neighborhood, and she told her neighbor to call the non-emergency Police number, and very shortly after that there were two cruisers in the neighborhood and the Officers spoke to the solicitor. Ms. Tyler stated the Police are very responsive. Ms. Tyler stated she would like to look into the issue further adding while she does not want to put the Township in legal peril, she does feel that daylight hours would be a reasonable restriction.

Mr. Lewis stated there are telemarketing laws in the Country that offer a “no rebuttal status,” and he believes that Pennsylvania is a no rebuttal State. He stated what this allows is that when a telemarketer calls you, and you state “I am not interested,” they are required by law to end the call politely. He stated if we indicate that Lower Makefield is a no rebuttal solicitation area, and someone indicates they are not interested, that should end the discussion. Chief Coluzzi stated this wording could be incorporated into the Ordinance that we are a no rebuttal Township. He added that with regard to the no solicitation list, if there are a few people on the list it might be overlooked, but if that list grows and the majority of the Township is listed as no solicitation, the ACLU and the Courts will come in against this.

Mr. Truelove stated we may want to see how we do with the enforcement we have now; and if people are vigilant, the Police are quick to respond. Chief Coluzzi stated they should call the Police and provide as much information on the solicitor that they can. Chief Coluzzi stated public service announcements going out to the residents with this information might be helpful.

Mr. Grenier stated the Crime Watch site does have a list of solicitors. He stated he has heard comments that people have had difficulty accessing that site, and they have considered having a link to that site on the front page of the Township's Website. Mr. Ferguson stated he will look into that to make sure that is being done. Chief Coluzzi stated they should also put information about this on the Township's TV Channel. Mr. Grenier stated he feels it would be helpful to provide information about posting a No Solicitation sign.

Ms. Blundi stated this is an important issue that people are concerned about, but there are First Amendment issues involved, and the Courts are strong on how you can affect that. She stated at this point she feels those who do not want solicitors at their home should put up a sign; and if someone continues to knock on the door, they can shut the door on them or call the Police. She stated we should also look into what we can do to become a no rebuttal Township.

Mr. Grenier asked if the Board would want to make a Motion to direct the solicitor to do anything specific. Mr. Truelove stated he can ask the surrounding Township attorneys about their experiences with the Do Not Solicit Registry, and Mr. Grenier stated he would like Mr. Truelove to do so; and he asked if a Motion is needed for that. Mr. Truelove stated they could direct him to do that.

Ms. Blundi directed Mr. Truelove to do so.

Ms. Tyler stated if there was going to be a Directory, Chief Coluzzi would need "another Department." Chief Coluzzi stated if there were to be a Do Not Solicit Directory, it would have to be handled like the Permits and the enforcement. He stated the problem he sees with the Directory is that there are legal issues with that currently as Mr. Ferguson has noted, so that may be changed; and if they do a Directory and have to change it later, that would be a problem as well as the fact that it is difficult to enforce. Ms. Tyler asked Chief Coluzzi what his counterparts are experiencing, and Chief Coluzzi stated they are in the same position that we are. He added that he has been advised that while Falls does have a Directory, the Police have found that it is not effective from an enforcement standpoint.

Mr. Lewis asked if there would be Board consensus on potential language around “No Solicitation” signs and potentially “No Rebuttal” language. Dr. Weiss stated he personally has a problem with a “No Solicitation” Ordinance but he has not problem in restricting hours or signs. He stated there are communities that are “No Solicitation” communities within the Township. Chief Coluzzi stated those would be the Condo Associations. Dr. Weiss stated the Homeowner Associations have that. Dr. Weiss stated he feels we need better definitions as to who is allowed to go into these communities such as political candidates and religious organizations, as well as where trespassing rights interfere with First Amending rights. Dr. Weiss stated he would like additional information. He agrees with Chief Coluzzi that it is unenforceable in the long run to have a “No Solicitation” Ordinance.

Mr. Grenier stated they are just at the information-gathering stage at this point. He stated the Board would be interested in some options in addition to what we already have. Chief Coluzzi stated he will work with Mr. Truelove and others to consider this. Mr. Grenier stated he does not believe that a Motion is necessary although a formal Motion could be made. Mr. Lewis stated he feels some direction is needed which is why he was asking if there was some broad consensus.

Ms. Blundi stated she thought Mr. Truelove had indicated that the Board could direct him to speak with his counterparts to gather information that would help form the Board’s opinion as to what direction we should head, and she had directed him to do that. Mr. Grenier stated he feels they should keep it fairly broad at this point, but agrees with Mr. Lewis about the “No Rebuttal” option being included in the information gathering.

Mr. Zachary Rubin stated there are private communities in the Township, and private communities can ban solicitation. He reminded Chief Coluzzi that when someone comes out to get a Permit, it should be emphasized that the Permit is for public communities and not private communities. Mr. Rubin stated he lives in a private community and numerous times in the past people have knocked on his door and are told they are not permitted to solicit in this development, and they respond that they have a Permit. Chief Coluzzi agreed to advise that the Permit is limited to those properties that permit solicitations. Mr. Rubin stated in Pennsylvania there is a “Defend Your Castle” Law which means that if someone is on your property without permission or authorization, “you can shoot them.” He asked if a person can shoot a solicitor if they are on their property without their permission, and Chief Coluzzi advised against it.

#### SUPERVISORS REPORTS

Mr. Lewis stated on Monday, March 25 the Planning Commission met and considered a Special Exception for a different type of use within the Giant Shopping Center which was a franchise called Code Ninjas that teaches children how to computer code. He stated the Planning Commission recommended the Special Exception to the Zoning Hearing Board. Mr. Lewis stated the Planning Commission also considered a Special Exception for the Capstone Terrace property for a warehouse facility. Mr. Lewis stated there have been multiple different iterations of Plans for this property. Mr. Lewis stated the Planning Commission voted not to endorse or reject the Special Exception. He stated they decided they could not make a recommendation although there was some sentiment to oppose the project predominantly over traffic concerns related to the I-95 Interchange and the 332 By-Pass. He stated the project will be going to the Zoning Hearing Board for review.

#### BOARD VACANCIES

Mr. Grenier stated there are several openings on several of the Boards and Commissions and those interested should check out the Township Website and if interested send a resume to Mr. Ferguson.

There being no further business, Dr. Weiss moved, Ms. Tyler seconded and it was unanimously carried to adjourn the meeting at 10:25 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary