

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – APRIL 17, 2019

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on April 17, 2019. Mr. Grenier called the meeting to order at 7:35 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  
Timothy Reilly, 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.

Ms. Tyler stated on Saturday May 18<sup>th</sup> the fourth annual Full Heart Kids Carnival will take place by Silver Lake. She stated this is a kid-run charity to take place from 11:00 a.m. to 4:00 p.m. and it is an event for children up to twelve to thirteen years old. She asked that the community come out and support Ms. Casey Shaeffer who supports charitable causes.

Mr. Grenier stated on April 20, 2019 starting at 10:30 a.m. at the Community Center, the Park & Recreation walking group will be meeting to walk approximately three to three and a half miles.

#### PUBLIC COMMENT

Mr. Grenier reminded those wishing to speak of the three-minute time limit for Public Comment.

Mr. Harold Kupersmit, 612 B. Wren Song Road stated at the last meeting he expressed his concern with State Senator Steve Santarsiero who had him arrested in August, 2014 and got an Injunction against him. Mr. Kupersmit stated this Injunction needs to be lifted. He stated his lawsuit is in the Third Circuit. Mr. Kupersmit expressed his concerns with a number of issues. He asked the Board of Supervisors to act as his escrow agent.

Ms. Lisa Baxter, 208 Arborlea, asked if the Board of Supervisors are willing to write a letter to the Falls Supervisors regarding Elcon before April 30. Mr. Grenier stated they had asked the EAC to review as much as they could the Elcon Application, and the Board needs to review their comments so they can use that as a possible basis for submitting a comment letter to the DEP for technical questions. Ms. Baxter stated there is time to make comments to the DEP; however, the Falls Supervisors will be making a decision on April 30. Ms. Baxter stated they should advise the Falls Supervisors that they do not want this facility next to Lower Makefield Township so that they can protect their residents and ask Falls Township to vote no for this project. She stated this is separate from the DEP. Ms. Tyler stated she would agree with Ms. Baxter. Mr. Grenier stated they have no technical review to base that on.

Ms. Baxter asked that the recycle yard be open more than once a month. She stated she is unable to attend next month's date so that means she would have to wait two months to take her yard waste. She stated she understood that it costs the Township \$47,000 to run the recycle yard which is \$5 per family. Mr. Grenier stated the financial issue is only one of the issues related to the recycle yard. Ms. Baxter stated she understands there are wetland issues there, but they could use a portion of Patterson Farm. She stated there were six workers last Saturday at the recycle yard, and she feels they could use half the amount of people and do an additional day a month.

Mr. Grenier stated the DEP regulates yard waste facilities similar to landfills and Municipal dumps, and they require additional Permitting, engineering designs, Best Management Practices, reporting etc. which incurs a lot of cost. He stated in order to implement that, the Township would have to pay a lot of money. He stated they also have to have staff on site to address that. He stated they need to have staff there whenever the recycle yard is open. Ms. Baxter asked if they could ask for volunteers, and Mr. Grenier stated that would be against the Labor Agreement. He advised Ms. Baxter that the Board has considered this issue many times; and while They would like to try to keep the recycle yard open, based on the current financial Situation, the number of staff we have, and the Permits and issues they have with the Yard it is not something they can do.

Mr. Grenier stated the trash haulers are legally required to take yard waste. Ms. Baxter stated they are just taking it to the dump; however, Mr. Grenier stated it is against the law for them to do that according to Act 101 of 1988. He stated his trash hauler will take bundled sticks provided you call them ahead of time. He stated this service is included in the trash haulers fees.

Ms. Baxter asked if there is a problem having the recycle yard open twice a month rather than once a month; and Mr. Grenier stated if they did that, they would have to have more staff working, and there would be more volume of material that has to be stored at the site. He stated when they do that, that qualifies as a Municipal dump which means we are breaking the law. Ms. Baxter stated she is asking that they do the same thing they are doing now, but do it twice a month. She stated she does not feel that they need that many people working there as they did when the recycle yard was open this past Saturday.

Mr. Ferguson stated they caught a lot of material that should not be on the site because of the number of staff they had there that day. He stated as he reported previously they have had tires, refrigerators, and metals dumped there. He stated the reason he had that number of staff there on Saturday was to try to move people through quickly so that they did not have to wait, but they also had trucks show up with chairs and desks and appliances that were buried underneath wood and other materials; and people were told they could not put those materials there. He stated while he may not need six people there moving forward, the Township has a Department of twelve, and he would need to assign individuals permanently to be at the recycle yard if they did it during the week as they did in the past when it was open many more days than it is now. He stated with the current regulations, he has to have controls in place to prevent dumping of materials that should not be there. He stated they are trying to keep it open and provide opportunity for the residents versus closing it outright.

Ms. Baxter stated she feels there must be a way they can manage this especially when there is a need to do more recycling. Mr. Ferguson stated it is not recycled the way it was previously which is why most of these sites have gone away. He stated in the past companies would take the material and sell it; however, now the Township has to pay to have it removed. Ms. Baxter stated they could figure out a way to mulch it and use it like they do at the Patterson Farm.

Mr. Ferguson stated when they cleaned the site out, it took 350 dump truck loads of materials. He stated the material cannot sit as it is near a wetland, and DEP is regulating it. Ms. Baxter stated she is not talking about that site, and she stated they could use a corner of Patterson Farm which could be dedicated for this.

Mr. Grenier stated the Board has looked into this in great detail, and this is the management plan they are doing at this time. He stated they have discussed this at numerous meetings.

Ms. Tyler stated she agrees with Ms. Baxter, and she feels the recycle yard should be open more. She stated they have cleared out what was sitting there, and there is now a much smaller volume of materials. She stated she feels three Mondays in the summer is not accommodating the residents, as many residents work on Mondays. She stated she feels they should provide the residents with a few Saturdays. She stated she feels it should be open once a month on Saturdays, and they would not need to have six staff there. She stated that in conjunction with the trash haulers should take care of most yard waste in the community.

Mr. Grenier reminded Ms. Baxter of the three-minute time limit. Ms. Baxter stated with regard to leaf mulch, she was told that she could pick it up between 12 and 2 on Tuesdays and Thursdays and to setup an appointment; however, since she works full time, she cannot pick it up at those times. Mr. Ferguson asked Ms. Baxter to contact the Township, and they would try to work with her to make separate provisions. Ms. Baxter stated in the past it was available outside of the gates so that it could be accessed; however, Mr. Grenier stated that is not possible as they would incur risk and liability if someone were to get hurt.

Mr. Ethan Shiller, 1578 Willow Pond Road, stated he was the Chairman of the Budget Advisory Committee from the very beginning and worked with many individuals until the Committee was dissolved. He stated that during the time that he was Chairman an evaluation was conducted regarding the potential sale of the public sewer system and consideration of purchasers to alleviate any type of future repair or maintenance costs. Mr. Shiller stated at that time there was one bidder, and the full report done in 2010 still exists. He stated the bid was from Aqua America in the amount of \$17 million to purchase all rights and all assets including all pumping stations, sewer lines, and interceptors. He stated at that time, Aqua had explained that they would be willing to freeze the sewer rates for two years. Mr. Shiller stated abiding by the law of the Public Utilities, any internal costs would be grouped in with all of their customers and any rate increases. Mr. Shiller stated he assumes each Board member has read or is knowledgeable about the report, and he could answer detailed questions. He stated the report can be made available as it is a record of the Township, and any resident who wishes to look for that report should know that it does exist.

Mr. Grenier advised Mr. Shiller that he had exceeded the three-minute time limit. Mr. Grenier stated if there is a report Mr. Shiller would like to circulate, he should do so through the Township Manager; and he could also set up a time to discuss this individually with anyone.

Mr. Shiller asked to be granted thirty additional seconds, and he was provided this by Mr. Grenier. Mr. Shiller stated whether or not the Board proceeds with any sale or Completes Its evaluation, he would personally ask that proceeds from any sale of the sewer system be maintained in the Lower Makefield Sewer Fund Trust and any income to be distributed only go back to the residents. He stated he would like a commitment from the Board or the candidates to specifically indicate to him and the residents at this point in time whether they would support that the proceeds be placed in Trust for the residents of Lower Makefield Township. He asked Mr. Lewis if he would commit to this.

Mr. Grenier advised Mr. Shiller that his time was up. Mr. Shiller asked if anyone will answer his question.

Mr. Lewis stated he appreciates Mr. Shiller's prior history and knowledge of the prior review of this issue, and he would be willing to meet with him to discuss it. Mr. Lewis stated just because he voted in favor of allowing a Phase 1 review did not at all indicate that he has support for selling. He stated with regard to Mr. Shiller's question, he cannot say "yes," since from a Balance Sheet perspective it may make more sense for Lower Makefield to reduce its current debt load with that large sum of money. Mr. Lewis stated the question is whether they would want that money sitting in a Trust earning a certain percent. Mr. Lewis stated he is open to listening to Mr. Shiller's perspective; but if Mr. Shiller is looking for an answer now, he cannot give that at this time.

Mr. Shiller stated he wants every member of the Board to make that decision. He agrees that they can proceed with the evaluation, but he is asking for each of their Individual commitments as representatives of Lower Makefield Township that whether the evaluation supports a sale or not, that those proceeds be placed in Trust in the best interest of the Lower Makefield Township residents. He stated Ms. Blundi is running for Supervisor, and he asked about her commitment.

Mr. Truelove stated he would recommend that the Supervisors not answer this question right now as they cannot make a commitment as it is preliminary, and it would be binding in a way that would probably not be legal at this point. Mr. Shiller asked Mr. Truelove at what point would it be legal for them to make that commitment. Mr. Truelove stated it would depend on the entire process and whether it would even be appropriate at any time, but they certainly should not be making that commitment tonight. Mr. Shiller stated he agrees it would not have to be made tonight.

Mr. Kevin Cauley, James Court, stated he understands the Township is considering the sale of the sewers to a third party; and he has significant concerns as a Township resident that his sewer rates will be inflated not only by the Township losing control of the system but also the additional cost of capital recovery by a third party as well as profit. He stated it may appear attractive to the Board to sell off the assets to have cash for other projects, but it will be the residents who will ultimately foot the bill through higher sewer rates. Mr. Cauley stated it was particularly disturbing to see comments made by Dr. Weiss on April 10, 2019 on the Lower Makefield Township Is a Great Place to Live Facebook page indicating, "Less debt means more funds available to build those fields at Snipes without incurring long-term debt. There are many options including lower taxes, but we wouldn't think of that." Mr. Cauley stated if the Township had cash, "maybe they would fix all of our crumbling roads first before other projects." Mr. Cauley stated there are two forms of obligations – debt on the Township's books and obligations of the residents who "will be on the hook" for future inflated sewer payments which is not on the Township books. Mr. Cauley stated given the Township's "penchant for fiscal mismanagement – the Dog Park, Golf Course, Senior Center, Bond down grade, etc." it is important that the residents are provided with full disclosure and transparency with regard to any decisions that are made with regard to the sewers. He stated residents should also be provided with pertinent information, decision timelines, and advance notice to provide residents with the opportunity for Public Comment before any decisions are made.

Mr. Ferguson stated it was his recommendation to evaluate the sale of the sewer system. He stated the discussion with PFM does not bind the Township to do anything, and it will be a public process. Mr. Ferguson stated right now he can assure the Township that we do not have control over the sewer rates; and while we can set the rate, we are bound by DEP and a variety of things happening including looking at the option of going to Morrisville at their new plant that will make the Lower Makefield sewer rates go up at least 100% in the next five years. He stated his obligation to the Board was to look into the sale of the system before settling on those rates. Mr. Ferguson stated they discussed with PFM a fixed rate for the sale with proceeds going possibly to debt reduction as opposed to selling it for a full-blow market rate with savings capped into lower rates for ratepayers. Mr. Ferguson stated there will be a public document with what they believe will be the five to seven-year costs and sewer rates with the obligations we are bound to by DEP as a basis of comparison so that the Board can make an informed decision. He stated all the information will be public. Mr. Ferguson stated the Township's sewer engineer and other analysts are looking into all the improvements the Township is mandated to do by DEP. He stated they will be able to show what the rates will be under both scenarios.

Mr. Ethan Shiller attempted to make additional Public Comment; however, Mr. Grenier advised Mr. Shiller that he had already had an opportunity to make Public Comment.

Mr. Jaan Pesti, 1367 Brentwood, asked the Board not to sell the sewer. He stated Governments are instituted to deliver services, and if they sell the sewer the rates will go up dramatically. Mr. Grenier stated while they are looking at potentially selling the sewer system through PFM based on the advice of the Township Manager, there will be a thorough analysis where the Board will analyze the math and determine whether or not it makes sense in the long term for the Township and the residents. Mr. Grenier stated that if the math comes back such that it is not a positive net benefit for the Township he will vote no; however, if it comes back as a positive so that they can pay down debt and do other fiscally responsible actions, that would be something to consider. He stated it is very early in the process for reviewing that, and they will be considering this for months.

Ms. Beth Cauley, James Court, stated she is also concerned about the proposed sale of the sewer system. She stated in-debt Municipalities are the prey of private utility companies. She stated there is no price they can put on retaining Democratic control of our own sewer system. She stated it is incumbent upon the Board of Supervisors to notify each Township resident through the mail as to what is being proposed with regard to the sewer system. She stated she feels it is unfair to assume that everyone is using the Lower Makefield Township Website to get their information as some people do not have access and are not into technology so they may not know what is going on. She stated it was her son who informed her about the sewer discussion on the Lower Makefield is a Great Place to Live Facebook page, and he apprised her of the quote from Dr. Weiss. Ms. Cauley stated she does not go on social media. She stated the Township should notify everyone in a letter as they do with the quarterly Newsletter. She stated notice should be mailed to each resident prior to any discussion so that the Township residents can be involved. She stated possibly an issue of this magnitude with the increase in rates if the sewer system is sold to a private company should be put out as a Referendum just as the Earned Income Tax was due to the fact that the sewer is a form of increased taxation for residents. She stated a company that is a utility wants to make a profit and will not be as cost effective as maintaining control of our own system.

Mr. Grenier stated they have had general discussions about improvements with regard to communication; and with regard to the sewer issue, the Township Manager posted a description on the Township Website. Ms. Cauley stated she did not see this, but the Township is “top heavy” with Seniors and empty-nesters; and she does not believe every Senior goes on the Lower Makefield Township Website. She stated she does not feel it is fair to those people who want to stay in the Township; and since this is another form of taxation, she feels they should be notified in a letter. Mr. Grenier stated there is notice about the Township meetings in the newspaper and also on the Township Website. He stated they will also have a Township Facebook page

fairly soon. Mr. Grenier stated he assumes that most people can have access to a public newspaper and the vast majority in the Township do have access to the Internet, but they are also looking at ways to notify residents through sewer bills and tax bills. Ms. Cauley stated she believes there is a quarterly newsletter that is sent out, and it could be put in that where you get a physical copy in the mail. Mr. Grenier stated they will look into that.

Mr. Ferguson stated there will be a fall newsletter which will be combined with the Park & Rec newsletter, and that would fall in line with the time that the analyses and discussions would be taking place. He stated he has staff members who will be writing articles in that Newsletter; and as far as the sewer topic goes, that would be a relevant topic that people would be interested in and it could be part of that Newsletter. Ms. Cauley stated she believes that Newsletter is something that people read when they get it in the mail.

Ms. Cauley asked the timeframe they are thinking of with regard to the analysis. Mr. Ferguson stated they will be considering it the whole year. Mr. Grenier stated people can watch the meetings from home on the television and at a later time on the Internet. Ms. Cauley stated Seniors may not do that.

Mr. Steve Ivicic, 1429 Lance Lane, asked if PFM is attempting to solicit more than one Bid; and Mr. Ferguson stated there is no solicitation going on at this time, and the Phase 1 process is just an evaluation of the system. He stated if the Board would elect to continue on with a more advanced look into the system it would involve a Request For Qualifications where any company that would be interested would be pre-qualified. He stated it would not just be PUC companies and it could be Municipal Authorities, Bucks County Water and Sewer, etc. and not just private companies. Mr. Ferguson stated that would be the basis by which they would indicate who would receive a Request for Bids should the Board wish to proceed. Mr. Ferguson stated PFM has indicated that they are currently handling eight sales where they typically have three or four Bidders on the sales they have done in Bucks and Montgomery Counties.

Mr. Ivicic stated the potential of retiring debt was brought up, and he asked what is the rate on the debt they would be retiring. Mr. Lewis stated there are a number of different Bond Issues that have varying levels of interest and varying call dates. He stated some of the debt is not callable, while some of it is. Mr. Lewis stated at the last meeting there was a discussion about the Phase 1 Analysis that in addition to the option of potentially selling the sewer system there could be an Operating Agreement concept where a private operator would operate the sewer system, but the Township would retain ownership.

Mr. Lewis stated that is an option to consider as well. Mr. Grenier stated he believes the total principal on the debt is approximately \$31 million; however, Mr. Ferguson stated it is more than that. Mr. Ferguson stated it is not just an evaluation of what the interest is because many of those rates are not substantial, and it has to do as well with how the payments were structured. He stated there is debt for the Golf Course that predates this Board; and where years ago the payments were \$20,000 a year, but now they are \$1.1 million, and in another four years will balloon to \$1.7 million a year for a period of seven years. He stated regardless of the sewer situation, it will be difficult to make those payments without it coming from a secondary source such as the General Fund. He stated part of what PFM will provide if the Board goes forward is an analysis of our debt and the options for our debt.

Mr. Robert Abrams, 652 Teich Drive, stated an individual at the last meeting complained about a traffic stop the Police Officers were doing; and he stated as a thirty-five year resident, he would prefer that the Officers err on the side of safety.

Mr. Abrams stated he is now hearing that we are taking our money and as opposed to paying off debt, we prefer to build ballfields. Dr. Weiss stated the comments that Mr. Cauley made were made out of context. He stated what he says on social media on occasion is “an attempt at facetiousness, sarcasm, or humor, mixed in with some information.” He stated it is a non-official Website which he is happy to engage if someone would like to talk to him about the details of it, and he would be happy to respond. He stated he understands that Mr. Cauley has interest in the Snipes ballfields. Dr. Weiss stated whatever happens with the sewer system will be based on facts and figures as enumerated by the Township Manager. He stated he has no official position with what to do with any proceeds; however, he is a strong proponent of reducing debt and prioritizing what needs to be done whether it is our Park & Recreation system, Public Works Department, or public safety. Dr. Weiss stated we have no idea what we are going to do with the sewer system, and we have no facts supporting any decision at this time. Dr. Weiss stated the Board has engaged PFM to initiate a study that will start to give the Board the data so that they can make informed decisions. He stated until they hear from PFM and get information from the Public Works Department on where our rates will go in the next five years given the status quo, the Board cannot make a decision. Dr. Weiss stated if we continue to do nothing we will be paying \$400 or \$500 a quarter. He stated the residents elected the Board to do the best for the Township, and he asked that they let the Board get the information to do the best for the residents. Dr. Weiss stated the Board does not like the reality that the rates are going up 20% every year, and the Board has to pay the same rates the residents have to pay since the Board lives here too.

Mr. Abrams stated Dr. Weiss told the residents on Facebook that he was going to take \$2 million and make \$50,000. Dr. Weiss stated that was before he realized “we were broke.” Dr. Weiss stated they were led to believe that they had a certain balance, and the reality was it was something else. He stated if they had not sold the rights to the cell tower, we would be below zero with our fund balance, and our Moody’s rating would have “gone through the floor,” and the rates we would be paying on future Bond Issues would be “ridiculous.” Dr. Weiss stated we sold the rights “to keep us afloat.” He stated he is sorry that “we were all led astray.”

Mr. Abrams stated there was a statement made that last year it cost us \$500,000 extra because it was the wettest year on record. Mr. Abrams stated now they are taking another \$500,000 because this year will be the wettest, and that is “a money grab.” Mr. Abrams stated they did not just add 5% or 10%, they doubled it. He stated he believes Mr. Fedorchak was talking about a 15% increase before he left, but it became 25%. Mr. Abrams stated Mr. Ferguson had no basis to double it; however, Mr. Ferguson stated he did. Mr. Ferguson stated overages occurred, and from January until now has been very wet; and the first quarter bill that they have to pay for treatment was consistent with what was seen last year. Mr. Ferguson stated seeing that there was a Fund Balance for 2019 in the Budget of approximately \$100,000 at the end of the year, which assumes no additional costs for pump stations or repairs which is not always the case, if they had not budgeted enough money and if it was equally or close to as wet as last year, they would be drawing money from the General Fund which would have gotten the Township flagged again by Moody’s. He stated Moody’s primary concern for our Bond downgrade was not just what our Fund Balance is, it is the fact that our Enterprise Funds which are the Golf Course and the sewer system, are so tight they require the General Fund as a backup. Mr. Ferguson stated in the event that they did not budget accordingly to cover both planned and unexpected bills, it would immediately trigger red flags for the Township to be brought before Moody’s, as he was this year, and would be asked why we are not budgeting enough money for the sewers.

Mr. Ferguson stated in past years, before we were mandated to do projects, the Sewer Fund had \$2 million to \$4 million Fund Balances, and it would not matter if it was a wet year or not since there was enough cover in there to do it; however, that cover no longer exists and the money is so tight, he is running a 1.5% balance. He stated if it is a wet year, and we cannot pay the bills, they will have to dip into the General Fund; and based upon what happened with Moody’s he made a recommendation to the Board that it would not be worth it for us to take that risk. Mr. Ferguson stated if it is not as wet as it was last year, and we do not need the full \$500,000, there are \$2 million in improvements that have to be done next year, so that if there were extra funds, that would be a Fund Balance to deal with emergencies, etc. and may make the rate increase that we may have to do for 2020 less because now there would be some extra funds.

Mr. Abrams asked what will be the “fund balance” for the Seniors after the sewers take 25%. Mr. Ferguson stated he still has obligations to meet, and Mr. Abrams stated the Seniors do as well.

Ms. Sue Herman, President of Residents for Regional Traffic Solutions, Inc. stated she attended the Zoning Hearing Board meeting last night where a Special Exception was requested for a warehouse on the Capstone Terrace site across from Shady Brook Farm. She stated it is apparent that this warehouse will be used for E-commerce. She stated the Zoning Hearing Board Continued the issue until its June 18 meeting and asked for the involvement of Lower Makefield Township’s traffic engineer. Ms. Herman stated she wants to reiterate that it is imperative that our traffic engineer insure that warehouse data is used that accurately reflects an E-commerce warehouse situation. She discussed problems in a town in New Jersey where a warehouse created traffic gridlock. She stated if we have gridlock that will be a public safety issue and make our Township an undesirable place to live.

Mr. Zachary Rubin, 1661 Covington Road, stated on March 25 in front of the Planning Commission, the Applicants for Capstone Terrace presented a Plan for a 125,000 square foot warehouse with forty-five truck bays. He stated at that meeting people spoke out against it, but the Planning Commission did not take a position – they did not approve it nor did they deny it. Mr. Rubin stated last night at the Zoning Hearing Board it was stated that if the Planning Commission does not present a report within thirty days, it is automatically assumed it is approved. Mr. Rubin stated the Township participated in the Application last night. Mr. Rubin stated on March 25 the Planning Commission did not take a position, and on April 8 they canceled their meeting for lack of an Agenda. He stated last night it was indicated that the Planning Commission approved it because the thirty days had expired. Mr. Rubin stated he disagrees as it was only twenty-three days so that was a misrepresentation last night at the Zoning Hearing Board by either the Zoning Hearing Board solicitor or the Township solicitor.

Mr. Rubin stated the Zoning Hearing Board meeting was a three-hour meeting, and a number of residents were sworn in and spoke against the proposal; and there was not a single resident who spoke in support of the Application. Mr. Rubin stated he feels the evidence that was presented overwhelmingly proved that the Applicant did not meet their burden of prove that they were entitled to a Special Exception. He stated even though it is a permitted use, there are a number of criteria for a Special Exception; and one of them is that they have to demonstrate that there would not be undue congestion on the highways. Mr. Rubin stated it was stated by the traffic engineer paid by the Applicant that there will be approximately eighty tractor trailers per day that will be using the roads, exiting on 332 from 295 West

and Stony Hill and 332. Mr. Rubin stated it was very disappointing that the Zoning Hearing Board Continued the Hearing until June 18, and did not Deny the Application. He stated there was not a single supporter, and the residents “eloquently” spoke against it.

Ms. Vanessa Fiori, 1995 Woodside Road, asked how much debt we have, and Mr. Ferguson stated it is over \$40 million. Ms. Fiori asked how we got there. Mr. Ferguson stated there are a series of Bonds that go back over ten years or more and some of the debt goes beyond that. He stated there was debt from many years ago regarding acquisition of the Golf Course and debt that occurred regarding acquisition of open space that we have in the Township. Ms. Fiori stated they were assured that the Golf Course would be self-supporting and we were also given Grants from the State to acquire open space. Mr. Ferguson stated with regard to the Grants that is true in part, but the Township also spent between \$7 million and \$10 million on open space that was part of Bond Issues. Mr. Ferguson stated while he cannot speak to what was stated twenty years ago about the Golf Course, the Golf Course is self-sustaining if you do not count the debt. He stated during the Budget process last year, he had to make a recommendation to the Board to transfer \$875,000 from our General Fund to the Golf Course to offset shortfalls. He stated last year was an exceptional year in that there was so much rain, we were down about 4,200 rounds of golf which hurt tremendously. He stated the Bond payment last year also went up to \$1.1 million. He stated the challenge for the Board is going to be to look at what is feasible. He stated we have a Financial Sub-Committee that has looked at the Bond debt and may have to look at redoing the Golf debt recognizing the payment is going to go to \$1.6 million to \$1.8 million for seven consecutive years starting next year.

Mr. Ferguson stated the debt went for a variety of priorities at the time that have carried forward as when you do these debts, they go for twenty years; and unfortunately for this current Board, some of that debt was structured that the payments up front for the Golf Course were very low in the amount of \$20,000 to \$30,000, but will end at \$1.7 million. He stated he does not know what the motivation was at the time, but that is what this current Board now has to address.

Ms. Fiori asked if it might make sense to sell the Golf Course rather than the sewage system. Mr. Lewis stated they have known about the challenges at the Golf Course as a community for a very long time. He stated in 2013 the Township lost a court case with the Dagewicz family which required the Township to pay them \$5.1 million which added to the cost. He stated the Golf Course represents between 30% and 35% of the total debt. He stated all the debt was structured to be pushed out, and those numbers are now finally coming due. Mr. Lewis stated golf has also declined in popularity. He stated Makefield Highlands does extraordinarily well

compared to peer organizations for average rounds of golf. He stated we charge higher and we have higher utilization than neighboring golf courses. He stated we are under performing on Food and Beverage, but the challenge here is that golf in general has declined. He stated prior to becoming a Supervisor he questioned why we were only paying interest only and pushing out the debt, and now we have to deal with that.

Ms. Fiori asked if the Board would consider the sale of the Golf Course since that is something that is not a necessity while sewer service is. Mr. Lewis stated they would not be able to sell the Golf Course for what is owed on it in the current market. Mr. Lewis stated the Golf Course is not contributing enough to cover the Debt Service. He stated it is in our best interest to operate Makefield Highlands in the most efficient manner possible to maximize the amount of revenue that we get from it which is why he often urges people to consider having their events at Makefield Highlands.

Ms. Fiori stated there are other assets that the Township has that are less important than the sewer system such as the Pool, and the sewer system is a huge necessity which should not be taken out of our control.

Mr. Ethan Shiller attempted to speak again during Public Comment, and was advised that he already had an opportunity to speak during Public Comment.

#### APPROVAL OF MINUTES

Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to approve the Minutes of April 3, 2019 as written.

#### APPROVAL OF WARRANTS LISTS FROM APRIL 1, 2019 AND APRIL 15, 2019

Ms. Blundi moved, Ms. Tyler seconded and it was unanimously carried to approve the Warrant Lists from April 1, 2019 and April 15, 2019 as attached to the Minutes.

#### APPROVAL OF MARCH INTERFUND TRANSFERS

Ms. Blundi moved, Ms. Tyler seconded and it was unanimously carried to approve the March Interfund Transfers in the amount of \$813,459.18.

## ENGINEER'S REPORT

Mr. Reilly noted the engineering report provided to the Board by Mr. Pockl. Mr. Reilly stated with regard to the Pool repairs, the contractor has completed the demolition of the gutter and piping; and the limits of the pool wall repairs have been marked out, and they have begun those repairs. He stated they anticipate delivery of the gutter tomorrow.

### Approve Authorizing the Release of Payment No. 1 for the Main Pool Gutter Repairs Project

Mr. Lewis moved, Ms. Blundi seconded and it was unanimously carried to authorize the Release of Payment No. 1 in the amount of \$16,560

### Approve Authorizing the Release of Payment No. 2 for the Main Pool Gutter Repairs Project

Mr. Lewis moved, Ms. Blundi seconded and it was unanimously carried to authorize the Release of Payment No. 2 in the amount of \$31,500.

## PROJECT UPDATES

Mr. Ferguson stated with regard to the Township Properties – Inventory and Status, they had trouble getting the copies made; however, the preliminary analysis of all the properties has been completed, and he will provide it to the Board tomorrow and it will also be made available to the public. He stated at this point it is just an inventory, but the next part of this work is when Mr. Pockl, Mr. Majewski, and other staff members will begin to quantify all of those properties, consider repairs, cost estimates, etc. Mr. Grenier stated they are doing an inventory of all Township-owned properties including buildings, assessing their state, and using that as a basis to move forward with a long-term plan to address any concerns.

Mr. Ferguson stated with regard to the Makefield Road School crossing, he sent the Board an e-mail with an update on work to take place. Chief Coluzzi stated the milling will take place tomorrow. Mr. Ferguson stated there will always be one lane open. He stated there will also be an inspector on site, and he will provide updates on the work. Mr. Grenier asked if the stamping is being done as well. Chief Coluzzi stated he does not believe that will be done at the same time, but it will be done at a later time.

Mr. Ferguson stated with regard to the 2019 Road Program, they are in the thirty-day wait period; and he believes that at the next meeting, they will be signing off on authorization to move forward.

Mr. Ferguson stated Pool renovations are moving forward, and they are on target to open May 25. He stated a Motion was passed to paint the other pools, and they have done the cleaning and are moving forward.

Mr. Ferguson stated with regard to Memorial Park, they are coordinating with Remington Vernick and the staff. He stated the project includes putting in tennis courts, pickleball courts, and a gazebo. He stated the Township received a \$250,000 Grant toward that work. He stated they hope to have the Board authorize advertisement in May, with a target completion date late October to mid-November.

Mr. Ferguson stated Mr. Majewski provided an update on the Woodside bike path. Mr. Ferguson stated they had a meeting with the Delaware River Joint Toll Bridge Commission. He stated there had been a discussion about the parking lot and the trail that will be going from the parking lot to the restroom, and whether it would be possible for them to take that trail up to the intersection to the light. Mr. Ferguson stated at the meeting, they indicated that would not be a problem; however, the caveat they had was that they wanted the Township to put in a crosswalk across Woodside Road. Mr. Ferguson stated if there was not a traffic light there, it would be a much more expensive proposition; however, there is a traffic light there. He stated he included in his Manager's Report that there is dedicated millage which was the match for the bike path, and he feels this is still within the concept of that framework. He stated the DRJTBC is anticipating getting started in June. Mr. Ferguson stated he can come back to the Board with a price proposal to do the crosswalk which he does not feel would be very expensive.

Mr. Grenier stated there is a comment in the report relative to the Bridge Commission that they intend to build a pedestrian footbridge over the Canal at some point in the future, and Mr. Ferguson agreed. Mr. Grenier asked if they provided a timeframe, and Mr. Ferguson stated he does not believe they did but he will have to confirm that.

Mr. Ferguson stated Mr. Pockl is putting together a report regarding DVRPC's comments regarding funding the bike path. He stated Mr. Pockl is going to look at the options we may have now and in the future, and they will provide this to the Board. Mr. Grenier stated if the Bridge Commission is doing everything they are saying they are doing that would drastically reduce the cost. Mr. Ferguson stated they can discuss this possibly at the next meeting.

Mr. Ferguson stated with regard to the Comprehensive Master Plan he believes the County will be at the Board meeting on May 15. Mr. Grenier asked when the Board will have something to review prior to the meeting on May 15. Mr. Ferguson stated while he does not have the draft report back from Bucks County yet, he would like the Board to have it at least one week in advance of the May 15 meeting.

#### MANAGER'S REPORT

Mr. Ferguson stated the Community Center has a RACP Grant, and there was about \$911,000 outstanding, and they are approving approximately \$861,000 which we will get in four weeks. He stated the auditors will be coming out to go through all the details. He thanked Ms. Ellison, his assistant, who went through financial statements finding each of the transactions. He stated once that is approved, the Township will get the remaining \$50,000.

#### Approval of Bucks County Consortium Aquatics Bid of Buckman's Inc.

Mr. Ferguson stated in the past we had purchased pool chemicals on our own each year. He stated he and Ms. Tierney had talked about how they could lower our costs at the Pool, and one of the ideas was to participate in the Consortium Bid since there are a number of Townships that have pools. Mr. Ferguson stated there is a list of the various chemicals. He noted one in particular which last year cost \$2.18 per unit for a total of over \$31,000; and because we participated in a group bid this year, the rate is \$1.47 per unit. If we use the same amount of chlorine used every year, there would be an approximate reduction in cost of \$10,000.

Mr. Lewis moved, Ms. Tyler seconded and it was unanimously carried to approve the Bucks County Consortium Aquatics Bid of Buckman's Inc.

Ms. Blundi thanked Mr. Ferguson for doing this as "every little bit helps." Mr. Ferguson stated the Pool is self-sufficient, and the fees and memberships pay for the Pool including the major improvements they are currently doing at the Pool; and they want the Pool to pay for its own future Capital improvements. He stated the Pool is also paying for the Feasibility Study which was authorized to evaluate future needs and Capital improvements. He stated Ms. Tierney has done a great job with that, and he will continue to watch the costs.

Mr. Grenier asked about Pool memberships; and Mr. Ferguson stated while he cannot provide a year-to-date number, we are ahead of where we were at this time last year by a significant amount. Mr. Lewis stated Ms. Tierney has done an

excellent job with this, and he believes that part of the benefit with the Community Pass program is that we were able to message people sooner in the cycle and get them to renew quicker.

#### SOLICITOR'S REPORT

Mr. Truelove stated the Board met in Executive Session beginning at 6:30 p.m. and Items related to litigation specifically about the Airport, collective bargaining involving the Police and Public Works, and informational items were discussed.

#### Update on the Oxford Valley Road Parcel Conservation Easement Status

Mr. Truelove stated they have been in contact with the County Planning Commission, and he will be coordinating with Mr. Pockl and Mr. Ferguson to submit the Application as well as the legal description of the survey which Mr. Pockl's office recently conducted so that they can finalize the information for the County and finalize the Easement process which they hope to accomplish within the next several weeks.

#### Adoption of Ordinance No. 418 Amending Chapter 178 SALDO to Revise Certain Tree Replacement and Protection Provisions

Mr. Truelove stated this has been considered a number of times. He stated it will extend the tree protection standards to trees located off site to be given the same protection as on-site trees when the tree protection area extends on to the site being developed. He stated it also provides that required buffer trees, street trees, and parking lot trees be counted as replacement trees when planted on site.

Ms. Tyler moved and Ms. Blundi seconded to approve Ordinance No. 418 Amending Chapter 178 SALDO to revise certain tree replacement and protection provisions as outlined by the solicitor.

Mr. Grenier stated this process started a few years ago when he was on the EAC, and involved a lot of work by the EAC members, staff, and the Planning Commission as well as the Board of Supervisors. He thanked everyone involved for working together to make this a more efficient Ordinance than what we had before.

Motion carried unanimously.

Adopt Ordinance No. 419 Amending Chapter 200 Zoning to Revise Certain Natural Resource Protection Requirements and Site Capacity Calculations

Mr. Truelove stated this is a companion Ordinance enactment for the Zoning Ordinance related to the Ordinance just passed for the SALDO. Mr. Truelove stated this is to amend the Zoning Ordinance to revise regulations for natural resource protection requirements and site capacity calculations in the R-RP Residential Resource protection, R-R1 Residential Low Density, and R-2 Residential Medium Density Districts. He stated specifically it is one Section to increase the percentage of woodland that shall be left undisturbed as resource protected lands at 85% in R-RP, 80% in R-1, and 75% in R-2; and to amend another Section of the Zoning Ordinance to reflect the aforementioned changes and details of required percentages to protect the woodlands per District, that the required percentage of woodlands be protected in other Districts shall not change or remain at 70%.

Mr. Truelove stated this is something that has been considered for quite some time by the EAC, the Planning Commission, the Board of Supervisors; and Mr. Majewski worked very hard on this as well. Mr. Truelove stated it is consistent with many of the other Municipalities in the area in terms of the percentages assessed in the different Zoning Districts.

Ms. Tyler moved and Ms. Blundi seconded to approve Ordinance No. 419 amending Chapter 200 Zoning to revise certain natural resource protection requirements and Site capacity calculations.

Mr. Grenier stated similar to the approval of the Tree Replacement Ordinance, this this was discussed at the EAC a few years ago; and the impetus for this was that Lower Makefield is very built up and most of the remaining areas of the Township for development are heavily wooded. He stated these revisions help to preserve more of the wooded land that we have in the Township for future generations. He stated generally speaking it is in line with other Townships in the area, and provides a great benefit. Mr. Grenier stated the same process occurred in that the EAC worked on the updates, it went to the Planning Commission, and then came before the Board which resulted in a more efficient Ordinance.

Mr. Lewis stated he would prefer the higher protection ratios in line with Upper Makefield; however, he will support the Ordinance, and would suggest that they look at it in the future depending on where the Township is.

Motion carried unanimously.

Adopt Ordinance No. 420 Establishing Protection for Lower Makefield Township Heritage Trees

Mr. Truelove stated this has been reviewed quite a bit with extensive public discussion. He stated some minor changes were made before advertising the Ordinance including the Township being named as opposed to a specific agency, Board, or Commission within the Township. He stated it has been properly advertised and is ready for action by the Board of Supervisors.

Ms. Blundi moved and Ms. Tyler seconded to adopt Ordinance No. 420 for the Township of Lower Makefield establishing Chapter 185 – “Trees” and establishing Article I – “Heritage Trees” thereunder.

Mr. Grenier stated this Ordinance went through a very rigorous process at the EAC level, the Planning Commission level, and the Board level where there were many good comments made. He stated Mr. Bray from the EAC worked very well with everyone to get this done.

Mr. Jim Bray, 12 Terracedale Road, stated he is a member of the EAC, and he thanked the Board for the prior approvals and hopefully this one as well. He commented on the review process, which can be lengthy, but added they received good comments. He stated all three of these Ordinances add to the quality of life in Lower Makefield. He thanked the Board for this. Mr. Grenier thanked Mr. Bray for his hard work.

Motion carried unanimously.

Amend Resolution Number Approving Retention of PFM Financial Advisors, LLC Adopted April 3, 2019 to Resolution No. 2392

Mr. Truelove stated this is a numerical correction as the Township staff noted following the approval of the Resolution approving the retention of PFM at the last meeting, that the wrong Resolution number was attached to it; and it is before the Board to correct the number.

Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried to amend the Resolution number approving retention of PFM Financial Advisors, LLC adopted April 3, 2019 to Resolution No. 2392.

ADOPTION OF RESOLUTION NO. 2393 AUTHORIZING THE CONDEMNATION OF PROPERTY,  
AND ACCEPTANCE OF MEMORANDUM OF UNDERSTANDING, FOR THE PURPOSE OF  
CONSTRUCTION OF A NEW SANITARY SEWER PUMP STATION

Mr. Truelove stated Ms. Kirk has reported that she and Mr. Hucklebridge have been working with the owners of a property on Mahlon Drive so that the Township can acquire portions of the property of approximately three and a half acres to construct the new Stackhouse pump station. He stated the owners have signed a Memorandum of Understanding which sets forth all the terms and conditions of the acquisition and will enable the Township to proceed by condemnation with no future objections being filed by the owners.

Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried to approve Resolution No. 2393 authorizing the condemnation of property and acceptance of Memorandum of Understanding for the purpose of constructing a new sanitary sewer pump station as discussed by the solicitor.

ZONING HEARING BOARD MATTERS

With regard to the Ryan and Brigitte Filipczak Variance request for the property located at 1260 Bridle Estates Drive in order to permit construction of a fence resulting in encroachment into the easement, it was agreed to leave the matter to the Zoning Hearing Board.

DISCUSSION ITEMS

Sandy Run/Edgewood Bridge Update

Mr. Grenier stated the Board had approved the traffic engineer moving forward with the design to move the Road approximately 92'. He stated they just found out from PennDOT, who owns the bridge down the hill from that intersection, that they are now looking into replacing the bridge. Mr. Grenier stated when you replace a bridge often what happens is old bridges get raised up because of floodplain issues, and that could affect the geometry of the road which could affect the design of the Sandy Run/Edgewood Road interchange. Mr. Grenier stated they found out about this because someone was there surveying, and the Public Works Director noticed this and asked what they were doing which started this conversation. Mr. Grenier stated they have had some preliminary discussions with PennDOT over the last few days, and they have put it on a tentative schedule of two to five years. He stated this could

have a very large impact on the Sandy Run design; and if the Township were to do something immediately, it might force a re-design of the intersection because of any of any changes to the bridge. He stated they have therefore “paused” the intersection project.

Mr. Ferguson stated they met with the PennDOT Project Manager that handles bridge replacement and priorities in our District to understand what was happening; and it was indicated it was hard to provide a timeframe but stated it could be two to five years which was a surprise since typically PennDOT gives timeframes of five to ten years. Mr. Ferguson stated PennDOT’s next step is to come into the Township in the next four to six weeks as they are doing their preliminary analysis to look at various conditions. Mr. Ferguson stated it is therefore difficult for the Township to proceed with its project as it currently sits especially if PennDOT would do something like raise the bridge up higher which would change the profile of the road and the sight distances. He stated they would like to pin PennDOT down more specifically on their project. Mr. Ferguson stated before the Township spends \$1 million on Sandy Run and possibly having to go back to the taxpayers to advise that PennDOT replaced the bridge which will result in the need to do something different, he does not feel that is a good way to proceed. He stated he recognizes that the road has been closed, and there are people who want them to move forward.

Mr. Grenier stated we do not know the timeframe for the PennDOT project, and he asked Chief Coluzzi if he has any thoughts on any temporary approaches. Chief Coluzzi stated he looked at several of the alternative options that TPD had proposed originally which had been ruled out. He stated all of those options had posed problems because of the Railroad tracks being close by and they did not solve any of the intersection stopping sight distance issues; however, he feels it would be worthwhile to have those alternatives considered by a third-party engineer to see if there are viable temporary options recognizing that PennDOT may not approve any of them. He stated other than that he sees no viable option other than keeping the road closed.

Mr. Ferguson stated we do have a third-party reviewer who processes Applications and reviews for PennDOT, and he would agree with the Chief to have someone look at this to provide insights. Mr. Grenier asked if this is something the Board would need to vote on; and Mr. Ferguson stated he believes that the staff can just do this, and he would get an assessment from that reviewer as to how much time would need to be spent on this. Mr. Ferguson stated if the amount rises to the level that it would have to come back to the Board, he would bring it back; however, if it is something that could be done administratively, they would just

proceed with that sooner than waiting a few weeks before they could get this initiated unless the costs come back very high which would need it to be brought back to the Board.

Dr. Weiss stated until PennDOT gives a timeframe for fixing the bridge, maybe there is something that can be done that would look better aesthetically as opposed to the large orange barriers. Chief Coluzzi stated they would want to change that and not have those there for the next two to five years, and they will look at different options for that.

Mr. Grenier asked if they know whether TPD ever reached out to PennDOT about the bridge; and Mr. Ferguson stated he believes they had some preliminary discussions with them whether the bridge was on anyone's list, and all indicators were that it was not which was why the Township was so surprised when they saw the survey crew there. Mr. Ferguson stated he will be meeting with PennDOT representative in the next few weeks. Chief Coluzzi stated he and Mr. Ferguson also have plans to meet with our State Representative and some other officials who may be able to help push this project along. Mr. Grenier stated they should also consider the walking path next to the bridge since that is also a lower elevation than the bridge and floods frequently, and should be incorporated into any bridge re-design. Mr. Ferguson stated this was one of the first things that Mr. Hucklebridge pointed out to them in the preliminary discussion.

Ms. Blundi stated while it is good that the bridge may be fixed, this is not where we hoped we would be heading. She asked that they consider any other temporary fixes.

Mr. Adrian Costello, 2122 N. Crescent Boulevard, stated he supports what Dr. Weiss stated that it has been too long that the temporary barriers have been up, and he asked that they consider something else if it is going to be another two to five years. Mr. Costello asked if this has anything to do with the timing of the chicanes being put in, or is it only the entrance from Sandy Run onto Edgewood. Ms. Blundi stated this involves litigation. Mr. Truelove cautioned the Board from commenting on this given the outstanding litigation.

#### Upcoming Budget Comparison Update

Mr. Ferguson stated one of the items he discussed with the Board when he first started with the Township was the idea of providing Budget comparison updates a few times a year. He stated he has put out a monthly Treasurer's Report to show the Board and the public where we are with the Budget comparisons year

to date versus Budget actuals. He stated he likes to take the report and provide commentary on certain major items such as Real Estate Transfer Taxes, overtime, etc. and he feels periodic updates provide a public overview. He stated he hopes to do this at the May 15 meeting once the complete March report is done. He stated the Auditors will be starting the Audit next Monday.

Mr. Grenier stated he wants to look at Budget issues throughout the year, and they are also providing Project Updates on each Agenda. He stated it is good to give a periodic review of the overall financial health of the Township.

#### PENNSYLVANIA AMERICAN WATER UPDATE

Mr. Ferguson stated he met with Pennsylvania American Water last Friday regarding a number of recent issues, and he anticipates they will be at one of the May Board meetings. He stated they discussed a number of issues including public notice, how renters would get notice, e-mail sign-ups, etc. Ms. Tyler asked if the Board could be provided with a copy of the PUC and any other reports so that the Board can review them before the meeting that PA American Water attends.

Mr. Grenier stated some residents received a notice that work will be done that would shut off water this Friday for several hours, and this caused concern since it would impact Passover and Good Friday. Mr. Grenier stated he contacted them, and they agreed to postpone that work until Monday. Mr. Grenier stated for those concerned about Monday, the work to be done is related to the moving of a fire hydrant on a Falls Township Road in front of Eleanor Roosevelt Elementary School.

#### SUPERVISORS REPORTS

Mr. Grenier stated the Electricity Reliability Committee met and reviewed some resident concerns about outages, and got some information back from PECO; and he understands a letter will be sent to Mr. Ferguson about some future activities and concerns.

Dr. Weiss stated the Zoning Hearing Board met last evening and heard the consideration of a warehouse development which was Continued. He stated the Zoning Hearing Board has asked the Board of Supervisors to have our traffic engineer review and analyze the updated traffic study to be provided by the

Applicant's traffic engineer for the next Hearing of June 18, 2019. He stated the Zoning Hearing Board would also like the Township's traffic engineer available at that Hearing to assist the Board in analyzing the impact of the proposed warehouse as part of the Special Exception Application.

Mr. Grenier asked Mr. Ferguson when the Zoning Hearing Board asks us to have our traffic engineer available for reviews and meetings, is that covered by the Applicant or does the Township have to incur that cost; and Mr. Ferguson stated it is not part of a Land Development at this time so the Township would have no Escrow posted to pay for that. He stated unless the Township would strike a separate deal with the Applicant to cover those costs, at this point it would be on the Township to pay for that. Mr. Ferguson stated they will need to get a scope as to how big the study is; and if the dollars rise to a certain point, it would come before the Board of Supervisors. He stated if it is a couple thousand dollars, it could be done administratively.

Dr. Weiss stated the Economic Development Committee made an appointment with Spirit Golf to discuss possible local business/Golf Course partnerships to help enhance the revenues at the Golf Course.

Ms. Blundi stated she attended PSATS which was very educational. Ms. Blundi commended the Citizens Traffic Commission for work they did in getting out a letter to the Zoning Hearing Board about the traffic issues related to the warehouse proposal.

Ms. Tyler stated the Golf Committee met, and the Golf Course has hired a new chef, and they are in the process of shifting to a new menu. She encouraged residents to check out the Makefield Highlands Grill at the Golf Course.

Mr. Lewis stated the Park & Rec Board met and reviewed a user group overview of different Park & Recreation assets. He stated they also heard from a Girl Scout Troop with a proposal to develop a children's library at the Dog Park which would be a self-contained book center which will store children's books for children to read since if they are under the age of sixteen, they are not allowed inside the Dog Park. He stated this will be a resource for children to be able to read while their parents are in the Dog Park with their dogs. He stated Ms. Tierney will be working with them on the location, that it will be structurally sound, and will be able to withstand the elements.

OTHER BUSINESS – ELCON MOTION

Ms. Tyler stated in response to comments made earlier by Ms. Baxter with regard to Elcon, she has drafted a letter that she would like to send to the Falls Township Supervisors which she would like to read and have the Board sign on with her.

Mr. Grenier stated typically how the Board does things like this is that they put it under Discussion Items; and since they have not received the EAC review letter yet, a letter to the Falls Township Supervisors may be premature. Ms. Tyler stated the Falls Township Board of Supervisors are meeting on April 30 so if we do not do it now, it will not get done. Ms. Tyler stated she will be sending a letter which she will sign and would like to know who will sign it with her.

Ms. Tyler read the letter as follows:

“Please allow this letter to serve as our appeal to your Board to deny Preliminary Land Approval to Applicant, Elcon Associates, Inc., at your April 30, 2019 meeting. As your neighbor, we wish to communicate our significant concerns regarding the impact the placement of a liquid hazardous waste treatment facility will have on our respective communities. It is our understanding that both the Falls Township Environmental Advisory Board and Planning Commission recommended Denial of the Application. The LMT EAC has also resoundingly advised against the placement of such a facility in our communities on the Delaware River as it is a drinking water source for millions. The concerns are many not the least of which are air and water quality. As you are aware the DEP is presently reviewing Elcon’s proposal after two prior rejections due to incomplete Applications. We submit that prior to considering Preliminary Land Approval, you will await the decision of the DEP. It is likely that the DEP’s findings will provide information relative to the Land Use issues that you are considering. Thank you for your consideration.”

Ms. Blundi stated she would be willing to sign this as well.

Mr. Grenier stated he has a concern about sending something to a neighboring Board of Supervisors, Zoning Hearing Board, etc., although he would be in favor of sending something to the DEP. Mr. Grenier stated he recalls that the Board of Supervisors received advice from the prior Township solicitor about potentially having the ability to enter into a lawsuit specific to Elcon if we felt so inclined. Mr. Grenier asked Mr. Truelove if we were to write a letter as a Board to another Township, does that

negatively impact our position if we choose to leverage that in the future against Elcon. Mr. Truelove stated he would say “no” because there is still a lot of information that would not be available publicly until litigation would ensue. He stated this letter would just be sending the Board’s sense of what our concerns are. Mr. Grenier asked Mr. Truelove about writing a letter like this in opposition before certain things have been reviewed by different agencies, and he asked if that puts the Township at risk for interference with a State agency of some type or some other agency. Mr. Truelove stated even though they are acting as a Board, they are still acting as interested citizens; and they do not have a legal stand in the case right now, and they are just talking as a neighboring Municipality representing those who are concerned about this issue.

Mr. Grenier stated his main concern about writing a letter now is that we negatively impact any future positions that we may have. Ms. Tyler stated she does not see how, and it is the Board’s job to advocate for our community particularly in this instance when we do not have a voice at Falls Township. Ms. Blundi stated previously Mr. Grenier discussed how we were being good neighbors to the people of Falls Township with regard to the water, and she feels this is a similar situation.

Mr. Lewis stated he has significant history with this particular issue, and he had Drafted a Resolution for the May 12, 2016 meeting but the then Chairman would not consider it. He stated it has some items which Ms. Tyler may or may not want to include in her letter, and it also addresses some of Mr. Grenier’s concerns.

Mr. Lewis read portions of that Resolution into the Record.

Mr. Lewis stated the Township’s solicitor at that time was Jeff Garton of Begley, Carlin, and there is a letter from him indicating that the Township has standing should we choose to sue. Mr. Lewis added that Begley, Carlin is also the solicitor for Elcon. Ms. Tyler asked when they started representing Elcon, and Mr. Lewis stated it was at the same time Mr. Garton provided the information to Lower Makefield. He stated they represented both Lower Makefield and Elcon at the same time.

Mr. Lewis stated he feels as good neighbors to Falls Township, Lower Makefield should be actively trying to help Falls Township find good uses for the Keystone Industrial Development site.

Mr. Lewis stated he feels that the vast majority of what is in the draft Resolution is “solid,” and it reflects where we still are as a Board.

Ms. Tyler stated she would just like to send a letter, and anyone who wishes to may sign it.

Ms. Blundi stated with regard to Mr. Lewis' Resolution, the timing is that the Falls Board will be meeting the end of the month; and she is concerned about getting a Resolution done in time. Mr. Lewis stated he has a draft which could be provided to the Board. He stated another alternative is that the Board members could write individual letters which would reflect their individual views. He stated even though it was three years ago, the Board at that time did review his Resolution. He stated they also had Elcon at one of their meetings, and there were unanswered questions from Elcon which is what caused him to draft the Resolution; however, it was not considered at that time.

Ms. Tyler stated she is just looking to prevail upon the Falls Township Board of Supervisors to not make a decision on the Preliminary Land Approval until such time as the DEP has issued its report, and that is what her letter says.

Mr. Grenier stated he is in favor of individual Supervisors writing letters if they so wish, and he has some ideas for his own letter. Mr. Grenier stated while he had not seen it before, he is in favor of a majority of what Mr. Lewis read for a Resolution. He noted a technical item that would need to be changed with regard to the floodplain. Mr. Grenier asked Mr. Ferguson to distribute the EAC's comments to see if anyone wants to incorporate those comments into any individual letter to Falls Township. He stated at a future Board meeting, he would like the Board to review the EAC comments, and he feels it is important to put those technical comments in front of the DEP.

Mr. Lewis stated with regard to the timing, his understanding was that the Applicant's next process is Zoning Hearing Board review by Falls Township. Mr. Grenier stated the Falls Board of Supervisors is holding a special Elcon meeting on April 30. He asked if anyone knows what the goal of that meeting is. Mr. Truelove stated they are considering Preliminary Land Development. Mr. Grenier stated it is not Final Approval. Mr. Lewis asked Mr. Truelove if that is contingent on Zoning Hearing Board Approval, and Mr. Truelove stated he believes that it is, but he does not know where they are in that process. Mr. Lewis stated the Zoning Hearing Board is quasi-judicial, and he does not tend to want to interfere in that. He stated if Ms. Tyler's letter is generally to the Supervisors that "we don't like this," that is fine; however, he would not want to do anything that would jeopardize the independence of the Falls Township Zoning Hearing Board.

Mr. Grenier stated in terms of the Falls Township process, April 30 would not be our last chance to comment on this. Ms. Tyler stated this is the Land Use Approval. Mr. Grenier stated in case Falls Township chooses to ignore letters and public comments and they move forward, it would only be Preliminary Land Development Approval, and there is still Final Land Development Approval and still the Zoning Hearing Board, as well as the DEP where there are several Permits they are going after. Mr. Grenier stated while anyone may write a letter for April 30, there is still an opportunity to consider a Resolution in more detail.

Ms. Tyler moved and Ms. Blundi seconded to authorize the Township to send a letter to the Falls Township Board of Supervisors as she read into the Record earlier signed on behalf of this Township Board.

Mr. Grenier stated he does not completely agree with the letter as written, but he would commit to writing his own letter.

Mr. Lewis stated he is not prepared to enter into this given that the Township has legal authority to sue at any time; and he feels that if we were unhappy with the decision of Falls Township, we could take action. Mr. Lewis stated without having an EAC Phase 2 review, he does not want to enter into other Township's policy business such as we would not want someone telling us how to operate. Ms. Tyler stated if we were doing something that would effect the residents of another Township, she would expect them to advocate on behalf of their residents. Mr. Lewis stated he has done a fair amount of study on Elcon and has significant reservations about it and he has been very public about his concerns. He stated he would not have drafted a Resolution if he did not feel strongly about it three years ago; however, he feels that right now they are waiting for the Zoning Hearing review, although if it is the will of Board, it is fine.

Dr. Weiss stated he sees no problem in writing a letter to the Falls Township Supervisors asking that they delay any decision until all the facts are in as one neighbor to another. He stated if things progress, we reserve our right to answer anything they do since we do have legal standing and can become a Party should there be a need to. He stated at this point in the process he sees nothing wrong with having a letter drafted to the Falls Township Board.

Mr. Grenier asked Mr. Truelove if there is anything in the State Code that indicates we need to wait for the DEP or some other regulatory agency to complete their report. Mr. Truelove stated the MPC does not authorize that. He stated a Condition might be satisfying all DEP requirements for the Permitting process.

Mr. Lewis asked given that there is not an immediate need, would there be a willingness to consider a Resolution at a future meeting. He stated that would perhaps be a more constructive way to proceed. He stated he understands that we are one of the few Townships that has not passed a Resolution on this issue. Dr. Weiss stated that after the April 30 meeting, depending on what the Falls Township Board does, he would definitely entertain such a Resolution. Mr. Grenier stated he would want it to be done concurrently with reviewing what the EAC has done so that we have all the information at hand. He stated he feels preliminary letters are okay, but he feels they come with more force if they are backed up with technical information.

Mr. Grenier stated the Motion is to write a letter on behalf of the Board as written and read into the Record by Ms. Tyler to the Board of Supervisors of Falls Township, and Ms. Tyler agreed.

Motion carried with Ms. Blundi, Ms. Tyler, and Dr. Weiss in favor, and Mr. Grenier and Mr. Lewis opposed.

There being no further business, Mr. Lewis moved, Dr. Weiss seconded and it was unanimously carried to adjourn the meeting at 10:05 p.m.

Respectfully Submitted,

Kristin Tyler, Secretary