

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – OCTOBER 7, 2015

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 7, 2015. Ms. Tyler called the meeting to order at 7:30 p.m.

Those present:

Board of Supervisors: Kristin Tyler, Chair  
Dan McLaughlin, Vice Chair  
Jeff Benedetto, Secretary  
Dobby Dobson, Treasurer  
Ron Smith, Supervisor

Others: Terry Fedorchak, Township Manager  
Jeffrey Garton, Township Solicitor  
Mark Eisold, Township Engineer  
Kenneth Coluzzi, Chief of Police

PROCLAMATIONS RECOGNIZING KATHRYN MYER, ALLISON TEMPLETON, AND STEVEN WEANER

Ms. Tyler stated this evening they will be honoring three young people from our community. Ms. Kathryn Myer stated she held a book drive and created a library at the Lower Makefield Township Pool with book carts. She stated for two weeks she read to children and had activities for them at the Pool. She stated this was part of her Girl Scout Silver Award. Ms. Tyler stated they will continue to accept books at the Township Building. Ms. Tyler read the Proclamation honoring Kathryn Myer into the Record.

Ms. Allison Templeton stated over the break in September she went to the National Book Festival in Washington D.C. where she received an award for writing an essay about a book that shaped her, and she came in second place. She stated her essay was on the Harry Potter series. Ms. Tyler stated for a number of years Ms. Templeton has held an art fair at the Township Building, and she has raised over \$10,000 for St. Jude's. Ms. Tyler read the Proclamation honoring Allison Templeton into the Record.

Mr. Steven Weaner stated over the summer he built the Gaga court next to the playground for his Eagle Scout project. Ms. Tyler stated he has added a wonderful recreational facility for the Township. Ms. Tyler read the Proclamation honoring Steven Weaner into the Record.

DISCUSSION OF TERMINATION OF PUBLIC WORKS EMPLOYEE

Ms. Tyler stated at the last public meeting it was brought to the Board's attention that the Public Works Department may have paved a portion of a YMCA parking lot. She stated the Township Manager was directed to investigate this, and the day after the last public meeting he advised her that this had in fact occurred. Ms. Tyler stated at that time she called the Township Solicitor to find out what would be the proper procedure to address this situation, and Mr. Garton advised her that the employee must be immediately terminated, any accrued vacation time was to be withheld, and they should contact Chief Coluzzi to conduct an investigation. Ms. Tyler stated she did all of these things and contacted the other Supervisors to advise them of what had occurred.

Mr. Garton stated the employee involved had submitted his resignation previous to this particular incident which had yet been effective since he still had several days left to be employed by the Township. Mr. Garton stated once he learned that he had done work with Township employees, Township resources, and Township equipment outside of the Township without any authorization, it was obvious that his employment could not continue irrespective of whether or not his resignation would be effective shortly thereafter. Mr. Garton stated there was no way of knowing at that time the value of the work that was done outside of the Township without authorization. Mr. Garton stated he contacted the Township Manager and asked him not to release any funds to that employee for unpaid vacation etc. although they were obligated to pay him for any hours that he actually worked. Mr. Garton stated the Township was able to hold sufficient monies of the employee to cover the restitution for the work that was done and the hours that were spent which he understands was approximately \$2,800. Mr. Garton stated at this point the employee has been terminated, the Township is retaining the necessary funds to reimburse the Township for the expenditure of labor, materials, and equipment by Township staff, and the Chief was contacted with respect to an investigation.

Chief Coluzzi stated the purpose of a criminal investigation is designed to develop sufficient factual information to enable a prosecutor to make a fair and objective determination as to whether and what charges should be brought and to guard against prosecution of the innocent, as well as to develop admissible evidence sufficient to obtain and sustain a conviction of those who are guilty. Chief Coluzzi stated the Police and prosecutors need to insure that criminal investigations are not based upon premature beliefs or conclusions as to guilt or innocence, but are guided by the facts. Chief Coluzzi stated they also must insure that criminal investigations are not based upon partisan or other improper political or personal considerations and do not discriminate nor wrongly favor any person. He stated they must also consider whether an investigation would be in the public's interest, and to maintain confidentiality of criminal investigations.

Chief Coluzzi stated he will discuss the conclusions of the investigation, but he is limited by the Criminal History Records Information Act which prohibits District Attorneys and law enforcement officials from disseminating any investigative information to any person or entities other than a criminal justice agent or agencies.

Chief Coluzzi stated the Police Department thoroughly investigated the Lower Makefield Township Public Works employees who paved sections of the YMCA outside of the Township. After interviewing all persons involved in this matter, looking through computer files, e-mails, time sheets, and gathering all available video evidence it was determined that the Road Director's actions to repair areas of the YMCA parking lot was clearly in poor judgment but did not rise to the level of a criminal offence.

Chief Coluzzi added in certain cases it is also wise, although not imperative, for Detectives to have their investigation reviewed by another agency. He stated in this case their entire investigation was given to the Honorable David W. Heckler, District Attorney for Bucks County, for his review. Chief Coluzzi stated D.A. Heckler personally reviewed both the quality and the facts in this investigation and concurred that he would not undertake a prosecution of the former Road employee.

Chief Coluzzi stated Detectives also determined through this investigation that the Township Manager, Terry Fedorchak, did not authorize anyone to perform work at the YMCA.

Chief Coluzzi stated he cannot take questions from the Board or the public pertaining to the content of the investigation, but can take other questions.

Ms. Tyler stated this was a two-part process one of which was the criminal investigation and the other the matter of employment. She asked Mr. Garton what procedure they are to follow to insure restitution to make the taxpayers whole. Mr. Garton stated as noted previously, the Township will be withholding sufficient funds that were to be paid to the employee that will reimburse the Township for the materials and labor expended on the YMCA project. He added that the balance of any funds owed to the employee will be paid to the employee in due course.

Mr. Benedetto stated he is not satisfied with the conclusions. He stated his biggest problem is that he was not interviewed, and he knows that Mr. Smith was interviewed. Mr. Benedetto stated at the September 2 meeting an individual made an allegation about the YMCA being paved, and the Township Manager indicated he did not know anything about it and agreed to report back at the next meeting which was supposed to be September 16. Mr. Benedetto stated on September 3 he was at Starbucks and he saw the Township Manager there, and he asked Mr. Fedorchak if



he had looked into the paving issue. Mr. Fedorchak had stated he had not, and then he called someone at Public Works although Mr. Benedetto did not know who it was he called. Mr. Benedetto stated that individual confirmed that they did do work there, and that individual stated they were told that Kevin Kall had authorization from the Township Manager. Mr. Benedetto stated he and Mr. Fedorchak talked further, and Mr. Fedorchak indicated he would never have given authorization. Mr. Benedetto stated he questioned why a person who worked for the Township would do work in a very public place on Levittown Parkway, which would compromise his integrity and when he was a week away from leaving the Department. Mr. Benedetto stated he and Mr. Fedorchak discussed why he would have done this work, and Mr. Fedorchak advised that he thought Mr. Kall's wife worked at the YMCA. Mr. Benedetto stated he looked this up on Facebook, and found that she does work there.

Mr. Benedetto stated his concern is that if you talk to Mr. Fedorchak and ask when he first investigated this, you would assume he would tell you the same story Mr. Benedetto just relayed; and he feels that someone from the Police Department would have come to him and asked him if this was correct.

Mr. Benedetto stated he then responded to a message from Kevin Kall, and he advised Mr. Kall that he would like to talk to him about this. On September 12, the Saturday before the next scheduled Board of Supervisors' meeting, Mr. Benedetto saw Mr. Kall at McCaffrey's, and he advised Mr. Benedetto that it was true, but that he had authorization from the Township Manager. Mr. Benedetto stated he advised Mr. Kall that Mr. Fedorchak indicated Mr. Kall's wife worked at the YMCA; and Mr. Kall indicated that Mr. Fedorchak knew all along that his wife worked there. Mr. Benedetto stated he feels that someone is lying. Mr. Benedetto stated he was present for both conversations – with Kevin Kall and with Terry Fedorchak – and not one person reached out and contacted him. Mr. Benedetto stated people have asked why he was on Facebook questioning the integrity of the investigation, and Mr. Benedetto stated he was questioning it because no one contacted him. He stated he commends them turning this over to the DA's office, but he does not feel comfortable with the integrity of the investigation, and he does not feel the public should feel comfortable with it. He stated the public thought this would all "be swept under the rug."

Mr. Benedetto stated when he spoke to Mr. Kall on September 12, Mr. Kall told him that they withheld his paycheck. Mr. Kall indicated that he called Terry Fedorchak and told him he wanted his paycheck, and they gave him his paycheck. Mr. Benedetto stated he feels this was improper because if they were really looking into this, they would withhold the paycheck since they did not know at the time how much they were actually looking at. He stated he has a huge problem with the entire investigation because he was not contacted to confirm Mr. Fedorchak's story, and he



also has trouble with the findings of the investigation. He stated these are taxpayer dollars going out to Bristol Township where they were doing work, and they are just saying they will get the money back from Mr. Kall.

Mr. Smith stated he trusts Chief Coluzzi and Terry Fedorchak who have been his friends, but he would have liked a more independent look at this matter.

Mr. Smith stated he knows they are withholding about \$9,000 and the amount in contest is approximately \$2,800, but he would like to know if there was any look into the scope of what happened and whether there were other incidents.

Mr. Smith stated he believes Mr. Fedorchak when he said he did not know that this was going on, but he questions if there were other matters going on that they did not know about recognizing that this was the one that Mr. Kall got caught at supposedly. Mr. Smith stated if they have not looked into this, he feels this is an aspect they should look into since every tax dollar is important. He stated there could be more than \$2,800 which is involved if there are others, and they may have a lot of money involved.

Chief Coluzzi stated the investigation's scope was based on information that people who were interviewed may have known. He stated the words he read previously are familiar to Mr. Smith and other attorneys because they are part of the American Bar Association standards that they adopt during an investigation. He stated when he discussed the facts of the investigation and the conclusion, they are not based on hearsay, vindictiveness, or dislike for an individual, but are based on fact; and when he conducts an investigation and forms a conclusion, it is based on fact. He stated there is a big difference between a conversation two people may have and an official interview which is done with a Police Officer, and the person being interviewed is held to a much higher standard and is subject to some criminal penalties if they are untruthful during that interview.

Mr. Smith stated he is still concerned that while Mr. Kall was caught this time, there could have been other times. Chief Coluzzi stated it would be up to people who may have information to support that to bring facts to light. He stated if that rises to the potential of a criminal act, he would be obligated to look into it. He stated if it is just hearsay or allegations, it is up to the Board and Township management to do an internal investigation and look into that.

Ms. Tyler asked Chief Coluzzi if there was any impropriety in the Lower Makefield Township Police Department investigating this matter, and Chief Coluzzi stated there was absolutely not. He stated Police Officers investigate other Police Officers, arrest members of Board of Supervisors, etc. and the only time there would be a conflict would be in the Police were involved directly in the matter, and then it would be referred to another agency. He stated when it gets referred to another

agency, it is done so at the request of the Police Department; and the other agency confers with the Police Department as to whether or not it has merit to go to that agency, and it does not just automatically happen.

Mr. Benedetto stated he has an issue with this investigation being internal and read from the Township Code – Chapter 23 – Manager – Section 6 as follows:

“Supervision and responsibility for the activities of all Municipal Departments.”

Mr. Benedetto stated Mr. Garton just indicated that when he talked to Ms. Tyler on September 3 he advised her that the Police Department should investigate this.

Mr. Benedetto stated either the Township Manager knew about this and he lied when the matter was brought up at the last meeting or he did not know about it in which case his management is called into question. Mr. Benedetto stated if the Township Manager oversees and is responsible for all the activities of all the Municipal Departments, he questions why there would be an internal investigation and he feels this should have been turned over to the DA’s office from the very beginning.

Mr. Benedetto stated he found that in Northampton there was misappropriation of funds by as PTO, and they turned it over to the DA’s office.

Mr. Benedetto stated he feels what they are discussing here is much more serious since it is Township taxpayer dollars. He stated they do not know how much it was since they were there for four days in a very public setting, and it does not make sense why they would do such a “dumb” thing unless they thought that it was okay and that they had authorization. Mr. Benedetto stated he feels they should remove any sort of question about impartiality of the investigation and turn it over to the DA’s office. He stated he feels that they have a public perception that “exactly how it turned out is exactly what happened” and that there is no criminal matter.

Mr. McLaughlin stated he does not feel Mr. Benedetto should make exaggerations unless it is fact that there is a public perception. Mr. McLaughlin stated Mr. Benedetto is entitled to his opinion. Mr. McLaughlin stated it was turned over to the DA; however, Mr. Benedetto stated it was turned over after the investigation. Mr. McLaughlin stated it does not matter when it was turned over, it went to the County level. Mr. McLaughlin stated whenever someone differs with Mr. Benedetto’s opinion, they are not always wrong but have just come to a different conclusion. Mr. McLaughlin stated the Chief and the Police Department are providing the Township protection. He stated Mr. Benedetto is implying that the Police Department is a corrupt organization, and Mr. Benedetto is indicating that the Chief has not done his job. Mr. McLaughlin stated he trusts the Chief and he trusts the Township Manager with the monies of the Township. Mr. McLaughlin stated the DA has indicated that there is nothing there, but Mr. Benedetto is telling them that their word is not good enough. Mr. McLaughlin stated they have done an investigation, and the guilty party has been discharged, he will pay the Township back, and his reputation in the Township has been ruined. Mr. McLaughlin stated



not everyone has come to the same conclusion as Mr. Benedetto and some others on Facebook. Mr. McLaughlin responded to a comment made by a member of the audience, Ken Seda, and asked that Mr. Seda come forward and indicate whether he feels the Chief was involved. Mr. Ken Seda, stated he does not think the Chief was in on any of this. Mr. McLaughlin asked if he feels the Township Manager lied to them. Mr. McLaughlin stated he feels two people with an impeccable reputation have been smeared. Mr. McLaughlin stated what Mr. Benedetto and Mr. Seda are doing about the Township Manager and the Chief is a disgrace. Mr. Seda objected to how he was being spoken to and he stated he wanted an apology from Mr. McLaughlin.

Mr. Smith stated he assumes there were timesheets which were reviewed to track down where the workers were, and he asked Chief Coluzzi how many people from the Department had a sheet which was “fudged” in some respect and where did it say they were when they were in Bristol Township. Chief Coluzzi stated they cannot get into every aspect as to where people were; but added if this issue had not come up at the September 2 meeting, Mr. Fedorchak gets all check requests on his desk for approval and signature, and at some point Mr. Fedorchak would have seen on the check request YMCA and bills pertaining to the YMCA, and would have had to make a decision whether or not to approve that or look into it further. Chief Coluzzi stated this is a matter of procedure in the Township for paying bills and expenses. He stated this came to light before Mr. Fedorchak was able to see bills for the work which was done.

Mr. Smith asked if there was any money exchanged for the services in Bristol Township; and Chief Coluzzi stated that is one of the aspects of the investigation, and you look whether there was an intent to commit a crime, did the accused receive some compensation or personal gain from his actions, and did the accused to hide, conceal, or cover up his actions, and the answers to all of these is no.

Mr. McLaughlin asked Chief Coluzzi if he found any e-mails from Mr. Fedorchak saying that he could pave it, and Chief Coluzzi stated they did not. Mr. McLaughlin asked if there were any e-mails from Mr. Kall making a request, and Chief Coluzzi stated there were not. Mr. McLaughlin asked if the timesheets tell where employees are, and Chief Coluzzi stated they do not. Mr. McLaughlin asked if there is any kind of record that shows where employees are at a given time, and Chief Coluzzi stated there are records in the Road Department that reveal work scheduled. Mr. McLaughlin asked if the schedule showed that it was the YMCA at Levittown, and Chief Coluzzi stated it showed the YMCA.

Mr. Benedetto stated with regard to the termination, he recalls a conversation he had with Mr. Fedorchak and the actual e-mail from Mr. Kall; and it was indicated earlier that Mr. Kall was terminated immediately. Mr. Benedetto stated the way he recalls it, and he has the e-mail to prove it, was that after having a conversation with Mr. Fedorchak, Mr. Kall submitted his resignation effective immediately. He was to

resign as of September 7, and instead after his conversation, he resigned effective immediately. Mr. Benedetto stated he feels there should be clarification.

Mr. Fedorchak stated he spoke to Mr. Kall prior to the e-mail being sent out, and it was at that time that he terminated him. He stated that was prior to the e-mail.

Mr. Fedorchak stated the e-mail did not state that he fired him prior to that.

#### PUBLIC COMMENT

Mr. Bill Pelosi, 884 Henry Drive, stated he was present on behalf of the Lower Bucks County Chamber of Commerce, and he Chairs the Economics and Government Relations Committee. He stated they have been asked to facilitate a question and answer session for the Candidates for the Board of Supervisors, and they would like to televise that. He stated they have been told that the manner in which to do that is to come to this meeting and request permission to do so. He stated they are proposing October 23. He stated they have the Certificate of Insurance and the Application, and they would like authorization to use the facility and to televise it.

Ms. Tyler asked if they have confirmation from the candidates that they will be participating. Mr. Pelosi stated they have confirmation from two of the candidates, but do not have hard confirmation from the other two candidates. He stated the candidates had been asked to respond to them by October 9, and they have repeatedly tried to get an answer from them for the purpose of this meeting; but they have not been successful. He stated they have also offered to do it on a different day if the 23<sup>rd</sup> was not good for them. Ms. Tyler stated she had asked that they have a confirmed date before they made this request, and once they have confirmation from all parties, she feels the Board would consider accommodating them. She asked if this would be just for the Supervisors or would they include the School Board candidates, and Mr. Pelosi stated it would just be the Board of Supervisors. Ms. Tyler stated they could not make the facility available if all parties were not participating as that would be seen as bias; however, if they were able to achieve all parties participating, they would take the question to the Board of Supervisors to see if they would like to do this.

Mr. Smith stated this is not correct. He stated he believes that on June 3 the Board of Supervisors gave approval to have a televised debate, although it was to be done by the League of Women Voters. He stated the League of Women Voters is not going to be doing the debate for various reasons, but now they have the Lower Bucks Chamber of Commerce who has offered to do the debate. He stated there was never a condition that all the parties had to agree. He stated all parties have been invited to a debate in a question and answer forum. He stated the candidates have the opportunity to either show or not to show. He stated if they do not allow this, they have deprived the Township the opportunity to see the individuals who are running



for the Board of Supervisors. Ms. Tyler stated it would be inappropriate for them to allow Township assets to favor one party over the other. She stated she does not feel they can have a one-sided debate.

Mr. McLaughlin asked Mr. Garton if there is anything that prohibits the use of Township assets if one side does not show up, and Mr. Garton stated there is nothing that prohibits the Township from making the space available regardless of how many decide to appear. Mr. Benedetto stated the Seniors have had a debate for many years, and he participated in a debate in 2011 and certain candidates running for School Board did not show up. He stated the Board of Supervisors do not own the building. Mr. Tyler stated it is not the building, it is the televising; and Mr. Benedetto stated the candidates have indicated they will pick up the tab for this.

Mr. Pelosi stated as noted the candidates can decide whether or not they wish to appear; but if the candidates choose not to appear, this is not necessarily mean that is a disadvantage, and that could be a strategic decision on their part. He stated they could still have people submit questions and they could then provide an answer at a later time if they chose to.

Ms. Tyler asked how the forum would be run; and Mr. Dan Bates, President of the Chamber of Commerce, stated they have facilitated many debates before. Ms. Tyler asked if he has ever facilitated a debate where one side did not participate, and Mr. Bates stated they have not. He stated they had confirmation from two of the candidates, one candidate was asked for an open date, and they have not had any communication at all with one of the candidates. He stated their intent was that if they do get the space secured, they would go back and ask for an alternate date if they cannot do the October 23 date. He stated the Chamber of Commerce is a non-partisan organization, and they do debates to inform the public so that the voters are educated when they go to the polls.

Mr. Smith stated he has appeared in debates in the Township before they had television. He stated in 2006 the Board approved televising the meetings, and there were different forums televised over the years. He stated now people at home can see what is going on. Mr. Smith stated years ago there was a debate, and he did not like the format; and he did not attend which he feels was a mistake. He stated this is an opportunity for the people in the community to see Government and see transparency. He stated if two candidates do not want to show, that is their decision. He stated he feels this will be conducted fairly.

Mr. Smith stated he is not sure a Motion is necessary since they had already approved televised debates with the only difference being that it was to be the League of Women Votes and not the Lower Bucks Chamber of Commerce. Ms. Tyler stated the League of Women Voters would not conduct a debate without all parties participating.

Mr. Smith moved and Mr. McLaughlin seconded to allow the Lower Bucks Chamber of Commerce to use the facilities and room on dates scheduled among any Board of Supervisor candidates who choose to accept and choose to show.

Mr. Ethan Shiller, 367 Lang Court, stated the building and the video equipment belong to the people of Lower Makefield Township, and he does not understand why the Motion would not be supported by all of the Board of Supervisors to allow access.

Mr. Adrien Costello, 2122 N. Crescent Boulevard, stated the TV is an expansion of the facility, and he does not know why it would be restrictive. Ms. Tyler stated it would have to be paid for by the parties, and not everyone is participating.

Mr. Zachary Rubin, 1661 Covington Road, stated he is Treasurer of the Lower Makefield Democratic Club, and they will pay 50% of the forum; and if the other political party does not show up, they will incur all the expenses if that is a concern.

Ms. Jill Laurinaitis, 1517 Revere Road, stated Ms. Tyler had asked her to secure all the candidates first, but she did not feel that made sense since it did not work that way for vote the League of Women Voters; and because of the timing the RSVP date is this Friday and the date of the event is October 23 so this was the only opportunity they would have to come before the Board. She stated they want to provide this opportunity, and she thanked the Chamber of Commerce for coming to explain this.

Motion carried unanimously.

Ms. Kaaren Steil, 1027 Darby Drive, Chair of the Historic Commission, stated she had provided an invitation to the Board and Mr. Fedorchak; and tonight she is extending an invitation to everyone to come to the Township meeting room on Sunday, October 18 from 1 p.m. to 4 p.m. to look at the historic treasures of the Township. She reviewed some of the items which will be displayed at that time. She stated the event is free.



Ms. Geipel, 217 Arborlea Avenue, stated the Ragen tract was purchased as part of the Lower Makefield Township's open space inventory. She stated she moved to her home two years ago and a large part of that purchase was because Lower Makefield Township had purchased the adjoining land for open space. She stated it has still not been preserved, and they want to make sure that it gets preserved before it gets deemed developable. Mr. Garton stated the property was purchased with County Open Space money so there is a Deed Restriction so that no development can occur. Ms. Geipel stated it is Deed Restricted for now; however, it was noted it is restricted forever. Ms. Tyler stated when it was purchased the Township entered into an Agreement with the County so that now there are two parties involved and the land will not be developed. Mr. McLaughlin stated the County is a stakeholder in that land. Ms. Geipel asked if they could put up a sign on the property indicating that it is preserved, and Mr. Fedorchak stated this could be done within a month. Ms. Geipel stated she had sent a number of e-mails about this and had heard nothing back and she feels having the sign would ease concerns in the neighborhood.

Mr. Ken Seda stated he feels he has been mistreated by the Board. Mr. Seda stated he has the utmost respect for Chief Coluzzi and disagrees with Mr. Benedetto's comment about any impropriety or the way Chief Coluzzi conducted the investigation. Mr. Seda stated he is concerned about the cancellation of the meeting during this time frame, and he feels it is the responsibility of the Board to meet on a regular basis. He stated when something like this is happening in the Township, it is important that opinions are heard; and the delay and what has happened has raised some questions about the way the whole thing was handled. He stated he does not know the details of Mr. Fedorchak's involvement and only knows what he read in the article in the paper and some of the interaction on the Lower Makefield Facebook page which is populated by approximately 5,000 people. Mr. Seda stated he feels the Board should take this into consideration going forward when they consider scheduling meetings and having open discussion since it is important to the integrity of the Board. He stated he does feel he is owed an apology by the Board for the way he was treated.

Ms. Tyler stated she did not mistreat him. Mr. Seda stated Mr. McLaughlin is a member of the Board. Mr. Benedetto stated he feels an apology is long overdue by the Board to the public in general for being mistreated by any member of the Board since the Board works for the residents. He particularly noted Mr. Ben Weldon who asked at the last meeting to discuss something and was told to sit down because they do not talk politics. Mr. Benedetto apologized to Mr. Weldon because this was wrong, and he should have spoken up at that time. Mr. Benedetto stated Mr. Weldon had every right as a citizen of the Township to make his point.

Mr. Benedetto stated he objected to the meeting of September 16 being cancelled as did Mr. Smith. Mr. Benedetto stated he indicated that they should have discussed at that meeting the Public Works investigation, and he was overruled. Mr. Benedetto stated the Board Chairman does not decide when meetings are or are not cancelled and they do not decide what goes on the Agenda. He stated these are decisions to be made, according to Chapter 23 of the Township's policy under Township Manager, "in consultation with the Board of Supervisors." Mr. Benedetto stated he has asked for certain things to be on the Agenda, and they were not put on. He particularly noted the Public Works discussion. He stated people wanted to discuss this, but his request was not honored. Mr. Benedetto stated this is not a "monarchy."

Ms. Tyler stated she was advised not to put that matter on the Agenda since it was a matter of employment; and at the prior meeting, Chief Coluzzi had not yet concluded his investigation so it was not ripe for discussion.

Mr. Seda stated he feels that there were other items that were worthy of discussion; and even if the meeting is only twenty minutes, it is incumbent upon the Board to hold the meeting since that is what they were elected to do.

Mr. Smith stated he was Board Chairman twice. He stated they have had four meetings canceled this year. He stated he was advised, not consulted, that the reason the last meeting was canceled was because there were no Agenda items worthy of discussion. Mr. Smith stated even if that is the case, there is always Public Comment which is an integral part of any public meeting. He stated there are items on tonight's Agenda which could have been discussed on September 16 as well. He stated they cancelled meetings in July and August which is traditional, and is fine; however, a meeting was canceled in April for "no good reason that he could see," and now they canceled the September 16<sup>th</sup> meeting which he did not understand, and is upset by it. He stated he feels they must have meetings as the public demands it, and the public deserves it.

Mr. Tom Conoscenti, 1595 Ginkgo Lane, stated he is a member of the Economic Development Commission; and they recently concluded a 2015 Business Survey, and they will be on the Agenda in two weeks. He asked that all Lower Makefield Township businesses save the date of November 12 when they will hold at Meet and Greet at Makefield Highlands from 5:30 pm. to 7:30 p.m.

Mr. Brent Monahan, 17 Upton Lane, stated it seems the public tennis courts in Lower Makefield Township are disappearing. He stated from MapQuest it appears that there are fourteen courts in Lower Makefield. He stated years ago the two on Quarry Hill/Dolington were let go so that part of the Township is not served at all.



He stated he was told that the tennis courts on Revere Road have no nets because Toll Bros. was building in that area and used the area underneath the courts to dump their waste, and there has been subsidence and there may be some litigation in progress. He stated that takes away six courts. Mr. Monahan stated the courts at Schuyler starting from approximately Memorial Day to Labor Day are rented out by the Township for teaching of young people by professionals. Mr. Monahan stated those who are taxpayers and paying for this are chased from those courts. He stated he found that two other courts were being used by the Pennsbury Schools in the summer.

Ms. Tyler stated the tennis courts used by the camp at Schuyler are similar to YMS using the soccer fields. She stated they are in the middle of negotiations with Toll Bros. regarding the four courts at Revere, and they are not sure if they are going to put back two or four courts.

Mr. Smith asked what is taking so long with Toll Bros as the Township Manager was to follow up on this as soon as possible. He feels they need to take some affirmative action with Toll Bros. Mr. Fedorchak stated Mr. Garton and he met with representatives of Toll Bros. as recently as two weeks ago, and they have made an offer of approximately \$40,000 to the Township with certain conditions. He stated he and Mr. Garton felt they should get more than that, and they are trying to get to that point. He asked that the Board give them a few more weeks to discuss this with Toll Bros. to see if they can get to a number which they feel would be more favorable. Mr. Dobson asked if there is an estimate on what it will cost, and Mr. Fedorchak stated he does have a number of options they are considering. He feels it would be \$50,000 to \$60,000 for two courts with fencing. Mr. Fedorchak stated that there were four courts there. He stated a portion of the tennis courts were put on top of an area that was filled, and that area has since been excavated. He stated he would suggest that they stay away from using that area which is about the area of two of the tennis courts since he feels that no matter what Toll has done he would suspect that over the years, there will be a little bit of subsidence that would compromise the wearing course of tennis courts. He stated they were looking to have Toll Bros. replace at least two of the four courts.

Mr. Benedetto stated he was present at the Park & Rec meeting and it was very clear that one resident was not in favor of having any tennis courts there, but everyone else indicated they wanted them to replace all four courts. He stated he feels Toll Bros. should replace all four courts since they created the problem. Mr. Benedetto stated he does not feel Mr. Fedorchak ever had direction to do just two courts.

Mr. Fedorchak stated when you look at the site of the fill it definitely effects one of the courts, and they feel it could effect at least two; but there is no way they can make Toll put in all four based on the facts that are out in the field. He stated Toll has also made it clear to the Township that they do not feel that they are responsible for all four so they are trying to get to a place where they can see what they can get out of Toll. Mr. Fedorchak stated if the Board's decision is that they want four tennis courts, they can then discuss how that will be financed.

Mr. Dobson asked if two of the courts are okay, he questions why they have to repair four. Mr. Fedorchak stated all four courts are not in the best of shape, and it is time to upgrade that entire facility. Mr. Dobson stated what Mr. Fedorchak is stating is that Toll only wrecked two of the courts, and the other two over the course of thirty years are in need of an upgrade. Mr. Smith asked if they have budgeted for these courts, and Mr. Fedorchak stated they have not. Mr. Smith stated he feels they need to get this resolved quickly.

Mr. McLaughlin asked what times of the day are the courts rented to the tennis camps, and Mr. Monahan stated it is 9 a.m. to 2 p.m. Mr. McLaughlin asked if it is felt that they are over-renting the courts and should they consider next summer carving out two days a week when the courts cannot be rented so Township residents can use them. Mr. Fedorchak stated he feels they can do this, and they discuss it with the Park & Recreation Board.

Ms. Tyler asked how many of the tennis courts were compromised by the fill; and Mr. Eisold stated as Mr. Fedorchak indicated one of them was definitely compromised and there was a minimal part of a second court. He stated two of them were not effected at all.

Mr. Benedetto stated the two courts that were compromised they are not talking about replacing, and they are talking about replacing the two courts that were unaffected. He feels they should leave the two courts that were not compromised as is and have Toll Bros. replace the two courts that they damaged. He stated the other two courts are the Township's responsibility.

Ms. Tyler asked Mr. Eisold if there is concern that when the fill was pulled out and refilled that there would be settlement; and Mr. Eisold agreed that when material is taken out to that depth, there is concern over time that it will settle. He stated there would be concern if they did work in that area too quickly.

Mr. Smith asked how they found out about the debris under the courts, and Mr. Eisold stated they received a call from a neighbor adjacent to the courts who had a small sinkhole in their yard which led to the excavation of that, and it was determined that it was trash. They then went in all directions to determine the



extent of the effected area was. Mr. Smith asked if they know what is under the other two courts or could sinkholes develop there. Mr. Eisold stated they dug a number of test holes and looked through the whole area. He stated typically when these holes were dug, they dumped everything in that one hole. He stated this was twenty to thirty years ago. He stated they determined what the extent of that hole was and then did some additional tests and found nothing. Mr. Eisold stated this was the third or fourth area in the development where holes were found.

Mr. Monahan stated something should be done about the two courts that were abandoned on Quarry Road, and Mr. Fedorchak stated he felt that these were School District Courts. Mr. Monahan stated until the Toll Bros. issue is resolved, he feels the Township should not rent out the courts so often during the summer. Ms. Tyler asked that Ms. Liney contact Mr. Monahan and get him an inventory of the courts available since there may be some options he is not aware of.

Mr. Zachary Rubin, 1661 Covington Road, stated a number of meetings ago Toll Bros. was on the Agenda for Preliminary/Final Approval for the carriage homes phase. He stated at that time Mr. Dobson was very concerned about the situation with the tennis courts and asked if they could not use some leverage such as denying Certificates of Occupancy, etc. He stated the Board tabled the request by Toll Bros. at that time. He asked why they do not restore that leverage with sanctions against Toll Bros. Mr. Garton stated they have not approved those Agreements and no Building Permits or Occupancy Permits will be issued so that pressure remains. Mr. Rubin stated that is for the next phase, and meanwhile 191 homes in the first phase are still making settlements. He asked if they could not put pressure on those; however, Mr. Garton stated there are Development Agreements in place for those that commits the Township to issue Permits, etc., and it does not permit the Township to go back on its word with a previously-executed Agreement because of a problem that arose thereafter. He stated they could use the leverage for the future sections where there are not approved Agreements.

Mr. Adrien Costello, 2122 N. Crescent Boulevard, stated with regard to the paving done outside of the Township, he feels road paving is the highest visibility issue in the Township and somehow it was possible for someone to take our people and equipment for several days to another Township so there is a real control problem. Ms. Tyler stated the Township road paving is done by contractors. Mr. Costello stated he feels any resources leaving our Township at all should be something they should learn from so it does not happen again.

Mr. Dobson stated he feels they will move forward with a new Public Works Director and there should be a policy and procedure update. He stated the first thing is that resources should not cross Lower Makefield Township boundaries and this should be ingrained in the Public Works employees. He stated there is a

whistleblower policy and protections for people if they go over the Public Works Director directly to the Township Manager to tell him if they are doing something which they do not feel is right.

Mr. Costello asked that they also ask the new Public Works Director to look into the process the Water Company has with doing repairs and patching the roads. He stated there were 6" holes around the patches. Mr. Eisold stated when the Water Company does work, depending on the time of the year, they may not put a permanent patch in the trench and instead do a temporary fix to get through the season. He stated then they come back and put back the permanent fix in the trench itself. He stated in addition to that they are responsible for the cost of paving at least half the road to Township standards on their half of the road where their trench is located.

Mr. Smith asked what follow up is done to make sure that the work is done. Mr. Eisold stated the situation at S. Crescent was that road was not in bad repair beyond the patch, and it was fully paved a few months ago. Mr. Smith stated he would like to know why Mr. Costello had to come to the Board to advise them of this. He stated they have previously discussed the Twenty-Five Year Plan, and he asked if they need a better follow up on the roads in the Township. Ms. Tyler stated at the Board's instruction, they did come up with a Twenty-Five Year Road Resurfacing Program. Mr. Eisold stated the Plan was prepared one and a half years ago and has been recently updated. He stated it is based on inspection of all the Township roads and rating them based on condition of the road and the use of the road. He stated PennDOT does provide liquid fuels for the road work but hard decisions have to be made on which roads to do based on the amount of money they have. He stated they have also sustained some hard winters recently.

Mr. Smith stated if this is correct and there are a number of roads in need of repair, he questions why they are reducing the amount of money in the Budget that they are going to expend on road repair. Mr. Fedorchak stated the target number is between \$700,000 to \$800,000 which is what the current Twenty-Five Year Road Resurfacing Program calls for. He stated including the 2016 number, which shows \$700,000 over the last four years they will have spent over \$2.3 million on roads which is approximately \$800,000 a year. He stated this year they put some additional money into the program and will spend approximately \$1 million this year on roads.

Mr. Smith noted the 2016 Budget shows \$700,000 for road resurfacing and includes a statement that this will allow them to keep up with the Twenty-Five Year Road Improvement Program. Mr. Smith stated it also states in 2014 they spent \$826,000 and in 2015 they will spend \$1 million so he questions why they are only budgeting \$700,000 in 2016 when it was \$1 million this year and the roads need work.



Mr. Dobson stated they are catching up on road repairs from previous Boards that Mr. Smith sat on. He stated previous Boards spent \$1.2 million from 2007 to 2011, and they are now at \$3.7 million if you include 2016. Mr. Smith stated the Board then did not want a tax increase, and they were given a Budget from the Township Manager which prevented them from having a tax increase not knowing that now the roads seven years ahead are in bad shape and continuing in bad shape; and now they are cutting the Budget for road repairs over \$300,000 for next year so that they can make sure that there is no tax increase for Lower Makefield. Mr. Dobson reminded Mr. Smith that from 2007 to 2011 when he was on the Board he raised taxes 26%. Mr. Smith stated they raised one tax one year when the Police Chief asked for additional monies. Mr. Dobson stated now Mr. Smith wants to blame the current Board for the roads. Mr. Smith stated they should not be cutting one dollar from road resurfacing.

Mr. Benedetto stated he feels it was the previous engineer who indicated that they should be spending \$700,000 to \$800,000 per year on roads. Mr. Benedetto stated from 2007 to 2011 they spent significantly less than \$750,000 on average. He stated in 2012 when he, Mr. Dobson, Ms. Tyler, and Mr. McLaughlin were on the Board they spent \$450,000. He stated when you are told to spend \$750,000 a year by the Township engineer and you do not do it, the year you start doing it, it is not enough. He stated there are roads in the Township that have been identified that have not been paved for forty years, and are not scheduled to be paved for forty years. He stated the roads have been neglected going back to 2007 and prior to that, and they have not been spending \$750,000 a year; and if they were they would not have roads on the Road Improvement Plan that have been sitting there for thirty to forty years and have not been resurfaced.

Mr. Benedetto stated they should budget for the essential things the Government should be providing; and they should be resurfacing the roads instead of taking out loans for a golf course, an all-inclusive playground, and a community center which while they are nice to have, are not essential Government functions. He stated he has been advocating for this for four years, and they have not done it for four years. He stated they are trying to be everything for everybody.

Mr. Costello stated he does not care who is on the Board and they should not talk about previous Boards. He stated they own what the Board did before them. He stated 2,529 days ago two-thirds of the Township voted to take a loan out for \$15 million to buy open space, and the Board has done nothing. Ms. Tyler stated this is incorrect, and they will discuss this later on in the Agenda.

Mr. Paul Valerio, 1803 Wrightfield Avenue, stated he is present this evening with two thirteen-year old Boy Scouts who are here to complete a requirement for their Communications Merit Badge, and he questions the tone of this meeting. He stated he feels all those present and throughout the Country can do better.

Mr. Rick Garnier, 31 S. Homestead Drive, asked how much they have spent for litigation connected with the Golf Course. He stated he understands they paid \$3.5 million and they lost at the Supreme Court and had to pay the owners their litigation costs and interest costs on the money owed them. Ms. Tyler stated the Township had a different Solicitor when that litigation took place. Mr. Fedorchak stated he could get this information for him.

#### APPROVAL OF MINUTES

Mr. Benedetto moved, Mr. Dobson seconded and it was unanimously carried to approve the Minutes of September 2, 2015 as written.

#### APPROVAL OF AUGUST 17, 2015 AND SEPTEMBER 8, 2015 WARRANTS LISTS AND AUGUST, 2015 PAYROLL

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to approve the August 17, 2015 and September 8, 2015 Warrant Lists and August, 2015 Payroll as attached to the Minutes.

#### PRESENTATION BY EMERGENCY MANAGEMENT COMMITTEE

Chief Coluzzi stated a number of the civilian members of the Emergency Management Committee were present earlier but had to leave due to the hour. He noted Ms. Marilyn Huret and Mr. Jack Kennedy are present as well as Captain Tom Roche and Lt. Bob Lewis.

Chief Coluzzi stated the authority for the Emergency Management Committee comes from the Pennsylvania Emergency Management Code which lays out the requirements for towns. He stated there are three main requirements of Emergency Management that specify that the towns must have an Emergency Management Coordinator, updated Emergency Management Plans, and there must be an Emergency Operations Center. Chief Coluzzi stated in 2001 he was appointed the Township's Emergency Management Coordinator by the Board of Supervisors. He stated he subsequently appointed Captain Tom Roche as the Deputy Emergency Manager, and he reviewed Captain Roche's background and his history with the Township Police Department. Chief Coluzzi stated also present tonight is Lt. Bob Lewis, and he reviewed his background and his history with the Township Police Department.



Chief Coluzzi stated their Operational Plans include the Hazardous Identification Risk Assessment which is where the Emergency Management team identifies and priorities potential threats to the community. The Plan contains a resource list of people and equipment that they can call upon to assist during an emergency situation. He stated they also track SARA facilities which deals with hazardous materials, and every public and private facility that stores large quantities of chemicals must report those chemicals to the County and to the Emergency Manager. Chief Coluzzi stated they are required to review and update their Emergency Management Plan every two years.

Chief Coluzzi stated with regard to the Emergency Operations Center aspect which is the third requirement of the Code, there is an Operations Center which is located in the Police Department; and should the building ever be compromised, there is a Mobile Command Center that they can position elsewhere that is safe depending on the emergency situation. This is staffed by all public safety disciplines and persons who have expertise in the particular situation at hand.

Chief Coluzzi stated Emergency Management is a team which includes six civilian personnel, the Fire Department and Paramedics, the Road Department, and other jurisdictions through mutual aid. Chief Coluzzi recognized the civilian personnel who serve as follows: Mr. Jack Kenney, Mr. Jeffrey Gusst, Ms. Allyson Kliefoth, Ms. Marilyn Huret, Mr. Kevin Treiber, Mr. Jim Frawley, and Mr. Andy Chen an auxiliary member; and he reviewed their backgrounds and expertise.

Chief Coluzzi showed a slide of the different types of disasters categorized by natural and man-made disasters which could occur. He stated the purpose of Emergency Management is prevention and mitigation, preparedness, the response phase, and a recovery phase. Chief Coluzzi showed a slide listing the different resources that the Township depends upon in the event of an emergency/ disaster including the Southeastern Regional Task Force for Homeland Security for the five-County area. A historical slide was shown which shows some of the flooding in the Township over the years that they had to respond to.

A slide was shown of an active shooter scenario, and Chief Coluzzi stated this would be any individual who attempts to take over a facility and carry out mass destruction; and the primary areas of concern are schools, private commerce, and Government facilities as well as Houses of Worship in the Township. He stated they pay particular attention to all religious facilities. Lt. Bob Lewis stated over the past decade the Country has seen an increase in the number of active shooters, and these incidents can occur anywhere. Lt. Lewis stated since Columbine they have been training all of their Officers for an active shooter response which includes training inside facilities in the Township. Lt. Lewis stated for the past three years he and Chief Coluzzi have visited and conducted security assessments at every public and

private school and many of the Churches and Synagogues within the Township. He stated they have educated their staff about active shooter incidents and assisted them with the planning, preparation, and implementation of their Crises Response Plans; and they continue to follow up with them yearly conducting re-evaluations, reassessment, and observation of their safety drills. He stated they have also been working most recently with the Pennsbury Transportation Department identifying potential security threats for their School buses and developing plans to respond to those threats.

Chief Coluzzi stated hazardous materials can also present a unique set of problems for emergency responders and the public. A slide was shown listing some of the materials that move through the area daily by rail and on the roadways. He stated CSX moves over 350,000 loaded shipments of hazardous materials yearly by rail. He added it is estimated that the Trenton Line, which is the line that goes through Lower Makefield, has fifteen to thirty trains per week that are carrying more than one million gallons of crude oil. He stated the response to a train derailment would be identification of the hazard, notification to the public, and possible evacuation of the effected area. He reviewed how they determine the presence of a hazardous material. He stated CSX responds immediately when there is a train derailment, and CSX works closely with State, Federal, and local authorities; and they bring specialized equipment, personnel, and financial assistance to the effected area. He stated the environmental response is very important, and CSX takes the lead in the cleanup effort.

Mr. Benedetto asked if there are evacuation routes, and he asked if these could be made available on the Township's Website. Mr. Benedetto stated people he has talked to are very concerned about the amount of trains coming through the Township, particularly those carrying crude oil. Mr. Benedetto stated he would also like to see an Emergency Response Workshop scheduled. Chief Coluzzi stated Captain Roche will be talking about the notification system; however, because they do not know exactly where an event would take place, it would be difficult to post in advance what evacuation routes individuals should take. He stated if you post an evacuation route in advance on the Internet and a certain event occurs at a different location, it could be very confusing; and it could direct people into that danger zone so they would not want to do that prematurely. He stated the Emergency Managers do need to know what is available to them and where to direct people depending on where the event occurs. He stated while the crude oil fires and explosions are horrendous, more devastation could be caused by a chemical leak.

Mr. Smith asked about the chemicals that come through the Township, and Chief Coluzzi stated the chemicals are extremely lethal chemicals. He stated the tankers are constructed to hold the chemicals in the event of a derailment, but things could happen.



Mr. Benedetto referred to an article he read about CSX opening up the SecureNOW Computer System to officials to identify the location of all hazardous materials on its trains. Chief Coluzzi stated as Emergency Managers they can access exactly what is coming through on any individual train. He stated they can get lists which also specify yearly what has come through and the amount of chemicals that came through the Township. Mr. Benedetto asked if the Township could plan Emergency Response Workshops around this specific issue; and Chief Ronaldo stated they do not have plans for that at this time, but they could look into doing something like that. He stated they do a lot of drills with many other jurisdictions, and it is extremely time consuming and extremely costly. He stated it is also difficult to get all the different disciplines in the community involved in that, but it is worthwhile if they can do it.

Chief Coluzzi stated the Emergency Management Committee is also trying to insure that all personal care and child care facilities have an Emergency Operations Plan in effect and an Evacuation Plan for just their facility. He stated these Plans are reviewed by the care facility and the Emergency Management Committee annually. He stated per Code child care facilities require a copy of their Emergency Management Plan to be sent to the Emergency Management Coordinator, and they review and keep these Plans on file.

Chief Coluzzi stated with regard to notification of the residents ReadyBucks is the main source. Captain Roche stated for more “mundane” information they have their Website, Twitter account, press releases, etc. He stated several years ago the County instituted a mass notification system which was called CAN (Community Alert Network). He stated all these systems work off the 911 list. He stated Bucks County moved on to ReadyNotify PA which was an upgrade to CAN.

Captain Roche stated what they need for this to work so residents can get messages from Lower Makefield is for residents to sign up; and if they do not sign up, they will not be able to notify the residents. Ms. Tyler asked how many Township residents have signed up, and Captain Roche stated when he checked recently they had slightly less than 1,100. He stated the new system is ReadyBucks and they can tell where those who signed up are, and there are quite a few gaps. He reviewed the ways to sign up including the Township Website, [lmt.org](http://lmt.org). or [buckscounty.org](http://buckscounty.org) where you can get to the ReadyBucks link to sign up. He stated you can sign up for certain types of alerts, your primary language, and identify any special needs. He stated you can put in more than one location you want to receive alerts about. Captain Roche showed a slide showing where people who signed up are located including additional locations they chose. He noted the gaps between the dots on the map of Lower Makefield which indicates there are a lot of residents who have not signed up. He stated there are also special zones which would include flood zones where special messages could be sent out just to those who have signed up.

Mr. Dobson asked how they can get the message out to the residents that they should sign up. Captain Roche stated they should tell them in every Newsletter and remind them on-line. It was noted that it is also on the Township TV Channel. Captain Roche stated while there are a lot of ways for residents to get information such as the Township and Police Websites and Twitter, ReadyBucks is how you get more important information quicker. He stated you can get these messages on your cell phones.

Mr. Benedetto asked if the Emergency Management Committee is aware of the quantity and location of hazardous materials as they come through the Township. He recognizes that they could not make that information public. Captain Roche stated chemicals are coming through the Township every day on trains and trucks.

Ms. Tyler asked if there is a Neighborhood Watch in every neighborhood in Lower Makefield or are there gaps there as well, and Chief Coluzzi stated they are in approximately 40% of the neighborhoods. He stated when he first came to the Township they had one active Neighborhood Watch, and now out of an estimated 120 Residential neighborhoods, they probably have 35 to 40 Neighborhood Watch groups.

Ms. Tyler stated she feels they should do some kind of leaflet campaign possibly by students who need community service hours to remind residents to sign up for ReadyBucks since they have tried a few other ways, and the numbers are not high enough. Chief Coluzzi stated they would be happy to try anything. Ms. Tyler stated possibly they could coordinate this somehow with the leaf collection.

Ms. Elizabeth Beckelmen, 1581 Stapler Drive, suggested that they post on the Pennsbury School District Website or ask them to send something home with their students. Ms. Tyler stated they could look into that.

Mr. Smith stated he just received a text message from a resident who has suggested that information on signing up could be included in the tax bill; and Ms. Tyler stated they did this previously, and they will look further into what else they could do.

Chief Coluzzi stated Emergency Management also deals with a number of other issues that are not appropriate to discuss in public because it gives information about vulnerable areas in the Township. He stated they also review daily all the intelligence reports that are classified and un-classified, and they stay proactive about any threats and the intelligence that may effect the Township.



Ms. Tyler thanked Chief Coluzzi and all those serving on the emergency Management Committee. Mr. Smith stated it is a difficult time for Police in our Country, and he feels very confident in the Police Department and the Emergency Management Committee.

Mr. Benedetto asked how often the Emergency Management Committee meets, and Chief Coluzzi stated they meet as needed. Mr. Benedetto asked when was the last time they met, and Chief Coluzzi stated it was after the last incident which was an ice storm. He stated they do not always meet with the Liaison from the Board of Supervisors, but they meet and discuss different situations that happen. Ms. Huret stated they also have presentations from various departments outside of their immediate area.

Ms. Tyler stated she would like to get the group together to consider how to get the residents to sign up on ReadyBucks.

Mr. Benedetto stated he would like to see an emergency response workshop, and Ms. Huret stated they did a “tabletop” some time ago. Chief Coluzzi stated they also attended a seminar in Trevese where they went through all the protocols for a train derailment and hazardous materials spill, and they also had a tabletop exercise for emergency responders from all the different disciplines. He stated the Police and Fire part of Emergency Management do meet quite often.

#### COMMUNITY RATING SYSTEM REPORT

Mr. Eisold stated over the last year and a half they have worked closely with Township staff and FEMA to submit a number of documents to FEMA for the Community Rating System. He stated in a letter dated September, 2015 they received a draft letter from a CRS specialist who reviewed all the documentation submitted, and recommended a total of 1893 CRS credit points which relates to a CRS rating of 7. He stated the rating system is 1 through 10 with 1 being the best. He stated the report is currently being reviewed by FEMA and will be made final in the near future. Mr. Eisold stated as of May, 2015 there were 31 Pennsylvania Municipalities accepted in the CRS system; and of those only four have received a rating of 7 or better. Mr. Eisold stated currently no one within Bucks County has been received in the CRS program.

Mr. Eisold stated the way the program is set up is that you get an initial rating; and then with additional documentation over time, you can increase the rating and this relates to a savings in the flood insurance premiums for the residents. He stated their rating would relate in a 15% to 20% savings in insurance premiums.

Mr. Eisold stated they are waiting for the official letter from FEMA which they hope will be received in the near future. He stated they accept people in the program twice a year in October and May, and they are optimistic that they will get accepted in May. He stated then the letters and other information will go out to the residents to make them aware of what they can do about their premiums.

Mr. Benedetto asked about the Elevation Grants. He stated in a previous discussion it was indicated that there were no Applications, but he saw in the Budget for 2016 a FEMA amount of \$550,000. Mr. Fedorchak stated they had made Application for homes in March, and they just received word that they received a Grant of \$525,000. He stated he will discuss this in more detail with the Board in the future, but he has asked Mr. Eisold and his staff to visit the homes involved, of which two are to be elevated, and the third they should be able to capture the engineering for the elevation. He stated this project was put together by a previous engineer, but they are not going to use him going forward; and now they need to use Mr. Eisold's staff, and they have been visiting the homes, evaluating the circumstance; and they will come back and make a recommendation to see if there is enough money to elevate the two homes. Mr. Fedorchak added that he does not want to start on a project of this complexity and scope unless they are sure that the money that is there will be enough to cover the expenses.

#### PATTERSON FARM PRESERVATION OPTIONS

Mr. Garton stated several months ago he communicated to the Township about his observations and investigation into the various means of permanently preserving the Patterson Farm for the future for the Township and Township residents. He stated he had discussed various options. He stated the first option was that the Township could convey the property to a conservation organization and divest itself of ownership; however, he felt this would not make sense since the Township would then lose the ability to manage the property and make it available to the public and would have wasted significant dollars on acquiring the property. Mr. Garton stated the Township does use the property for mulch, and they could be precluded from doing so in the future if they went with that option.

Mr. Garton stated the second option was a Unilateral Declaration of Covenants and Restrictions, and the Township would unilaterally place a restriction on the property. He stated the Board would execute a document recorded of Record that restricts the property to the enumerated uses or purposes that they would find appropriate including agricultural purposes, conservation, etc. He stated there is a caveat to that in that a future Board of Supervisors could decide to undo that Unilateral Declaration of Covenants and Restrictions so that the Board's purpose



would not be met because a future Board may find that if they budgetary need, the Patterson Farm may solve that problem, and a future Board could undo the current Board's good intention. He stated in order to make that process work, they would need to find a third party entity that would be a holder and/or an enforcer of the Unilateral Declaration of Restrictions and Covenants. He stated one of these could be the Township Farmland Preservation Corporation; and although they are motivated now, the Board of Supervisors appoints members to the Farmland Preservation Corporation so if the intent was to do this in perpetuity, he felt that was not a safe way of making sure that the property was completely protected forever.

Mr. Garton stated there are other agencies that could serve in that role, and one of those is the Heritage Conservancy. He stated there is a cost associated with the Heritage Conservancy, which may not necessarily be a concern; however, he did not feel that they were particularly appropriate since they have offered Testimony here and elsewhere on behalf of developers, etc. so he was somewhat concerned about their mission and whether or not their mission was truly conservation.

Mr. Garton stated he also had discussed the Natural Lands Trust; and while they do charge money, they are a well-recognized organization that could be a willing partner in this process. He stated he had also mentioned the Bedminster Regional Land Conservancy which started out being local to Bedminster Township in Bucks County but has spread pretty significantly during the course of their operation, and they now have significant holdings in Solebury, Buckingham, and a number of other places throughout the County that have a very intensive preservation plan not only through their Township, but through other sources including private participation. He stated he suggested to Mr. Fedorchak that they should pursue further the National Lands Trust as a possible participant as well as the Bedminster Regional Land Conservancy. Mr. Garton stated he and Mr. Fedorchak met with them over the last several weeks. He stated the Executive Director of the Bedminster Regional Conservancy lives in Newtown. Mr. Garton stated the Board of Supervisors received information about these two agencies as well as information to the effect that the extent of the easements, restrictions, and covenants, etc. are generally discussed between the parties and you then come to a resolution as what the document will be to be recorded of Record. He stated they would want to maintain the agricultural aspects. He stated they normally do not take the buildings, and they develop a curtilage around the buildings so that would not be included with the Declaration. Mr. Garton stated they are anxious to include within the confines of the documents a restriction on impervious surface so that the impervious surfaces are limited to a percentage just to serve as a means to serve the agricultural purposes, the homestead, etc. Mr. Garton stated all of this is subject to discussion between representatives of these organizations and the Township Board of Supervisors with input from the community with respect to who the partner might be.

Mr. Garton stated it was his feeling that the Bedminster Regional Conservancy was more beneficial than the National Lands Trust because they are local in Bucks County and because the cost associated with the up-front funds provided to them as a monitoring cost was approximately half of what the National Lands Trust would charge. Mr. Garton stated for that money they come out and inspect the property on an annual basis, respond to questions and concerns, and are very proactive. He stated they are asking for seed money so that they do not have to spend their own funds which they use to maintain their operation.

Mr. Benedetto asked the amount of money they are discussing; and Mr. Garton stated for the National Lands Trust it was approximately \$30,000, and the Bedminster Regional Land Conservancy was looking for approximately \$15,000. This is a one-time payment – not an annual payment.

Mr. Garton stated they could also discuss the Farmland Preservation option with the County, but he did not feel it was as good for the agricultural component of the Farm as was the National Lands Trust or the Bedminster Regional Land Conservancy.

Mr. McLaughlin asked how long this would take, and Mr. Garton stated the critical issue would be discussion of the content and nature of the Easement, Restrictions, etc.; and if they were able to resolve that issue, he feels this could be accomplished in 2015 with a little bit of effort.

Mr. Benedetto asked if the last option noted is related to the two Applications with Bucks County; however, Mr. Garton stated it is not. He added they can participate for no consideration such that the Township would not get any money back. He stated the County would place the restrictions even if they do not give the Township any money. Mr. Benedetto stated if they are going to proceed with a different option, they would not be going for the Applications.

Mr. Benedetto asked Mr. Fedorchak if anything has been done about sending the County Commissioners a letter. Mr. Fedorchak stated based on his conversations he understands that neither of the Applications are going to be advanced. Mr. Garton stated he understood from people in the County that since this land was already owned by a Municipality, they felt that the money was better spent on acquiring private interests that would be subject to development and loss of the natural resources and farmland.

Mr. Garton stated the Board should consider the options he discussed and review the attachments he provided of the two organizations so that they can make an informed decision. He stated they can then begin the process.



Mr. McLaughlin asked if the National Land Trust and the Bedminster Land Trust are almost identical organizations, and Mr. Garton stated he feels the only difference is that one is primarily Bucks County, and the other does not have any significant holdings in Bucks County. He stated Bedminster would also be less expensive for the Township. Mr. McLaughlin stated he feels it has come down to these two choices, and he asked if it would be appropriate to make a Motion to start negotiating with one these two; and Mr. Garton stated he will be guided by what the Board asks him to do.

Mr. Tyler asked if proceeding in this way would compromise the Township's ability to use the land for Township purposes, and Mr. Garton stated "Township purposes" is a very broad term. He stated if Ms. Tyler is referring to the mulch, both organizations stated that would be appropriate as long as they do not have leeching problems that would get into the pond, etc. He stated they would not want there to be active recreation or some other uses. He stated the uses would have to be reasonably related to the conservation purpose.

Mr. McLaughlin stated he understands that the Artists of Yardley would be carved out, and Mr. Garton stated both organizations do not restrict the buildings because they are not part of the land. Mr. McLaughlin asked how the greenhouse would be effected, and Mr. Garton suggested that they exclude the small piece around the greenhouse. After further consideration, Mr. Garton stated this would not overlap the Bucks County Conservation so he does not feel the greenhouse would be effected. He stated the greenhouse is in the County restrictions.

Ms. Tyler asked if proceeding would have any negative impact on the farmer, Mr. Stewart; and Mr. Garton stated he would assume not because it would not restrict any agricultural operation. He stated both organizations indicated they wanted to include a reasonable restriction on impervious surface so that it would not expand into paving.

Mr. Smith asked if any of this documentation has been communicated to the stakeholder groups for Patterson Farm such as Mr. Hirko and Ms. Doan. Mr. Garton stated he feels the process would include the stakeholders including the tenant and the community; and he feels they should all look at it to make sure everyone is comfortable.

Mr. McLaughlin asked if Patterson Farm will look the same to the average Township resident as they pass by; and Mr. Garton stated if the Township engages in a relationship with one of the two groups he has mentioned, he would suspect that the only outward appearance you would see differently would perhaps be a sign indicating it is part of the National Lands Trust or the Bedminster Regional Conservancy protected area.

Mr. McLaughlin moved and Ms. Tyler seconded to direct the Township Manager and Township Solicitor to begin the negotiation process with the Bedminster Regional Land Trust with cooperation from the stakeholders – the non-profit Patterson Farm Preservation Committee, the farmer that farms the land, the EAC, the neighborhood community group, and the Historic Commission.

Mr. Benedetto stated this is for the 140 plus acres and will not include Satterthwaite, the Janney-Brown House, and the 70 acre piece that is already protected. Mr. Garton agreed stating it will be the land.

Mr. Benedetto asked Mr. Garton if he knows of any other properties that Bedminster has, and Mr. Garton stated included in the material the Board of Supervisors was sent there was a map that shows all the properties. He stated they have a significant amount of properties. He stated he found them through Lynn Bush who is involved in conservation.

Mr. McLaughlin asked if Bedminster is interested in doing this, and Mr. Garton stated they are. He stated the Executive Director lives in Newtown, and she knows the area. He stated he feels they would also like to be able to spread further beyond Central and Upper Bucks County. Mr. Benedetto asked if they could have her come in to make a presentation similar to what the Heritage Conservancy did, and Mr. Garton stated they could. Mr. Benedetto stated he would like to do this before any decision is made.

Mr. Zachary Rubin asked that the Board postpone the vote on this until they discuss the Satterthwaite House because that House includes five acres in that parcel. Mr. Benedetto stated the House is not part of this. Mr. Rubin stated the Township still owns that property as of today, and they could put that five acres back. Mr. Garton stated they could add or delete before the Supervisors make any decisions.

Ms. Helen Heinz stated a farm without a place to put the farmer and his equipment is not going to do them a lot of good. She stated she feels it is shortsighted not to include the buildings. She stated from a historic perspective, it is a disaster to separate the buildings from the land. She stated she does not feel the Township should spend \$30,000 to do what they can do themselves. Ms. Tyler stated it has to do with enforceability. Mr. Smith stated they are trying to insure against a future Board that may see the Farm differently. Ms. Heinz stated getting the property Registered on the National Register and having a historic overlay is how they should go and this would improve all of their property values.



Ms. Donna Doan, 2014 Langhorne-Yardley Road, Langhorne, stated she is the founding Director of Patterson Farm Preservation Inc. Ms. Doan stated she does not agree with the proposal. She stated Patterson Farm Preservation Inc. was formed because concerned citizens wanted it to be farmed, and at the behest of the Township they went through all the legal steps they were requested and got the insurance so that they could go in and restore these homes. She stated they have benefactors and everything in place. She stated there is no reason they have to carve out any of the buildings from the Farm. Ms. Tyler stated they are only going to enter into an agreement for the land, and this does not hinder their ability to do what they want with the Satterthwaite House, and this will not change anything.

Ms. Doan stated it does change it. She stated she has repeatedly discussed the option with the Board of the Pennsylvania Farmland Preservation Program which wants the buildings included, and they do not change anything about the management of the property so the Township could preserve the entirety of Patterson Farm with the buildings included and still give Patterson Farm Preservation as a 501C3 the ability to manage those buildings. She stated she feels taking out the Satterthwaite parcel opens up the door for the Vet to get the property because it would be advantageous for the Township to “wash their hands of it.”

Ms. Doan stated Patterson Farm Preservation Inc. is fully committed to the preservation of the Farm, and they have 3,400 people who have signed a petition; and many of the people are here and have waited until this late hour, and they do not want this rushed through. She stated they want it done right, and they want to keep it under our control. Ms. Doan stated the Farm has been a part of her family since 1917, and she vowed to get it restored by 2017. She stated she does not see any reason why that option is not on the table and why they are considering outside options.

Ms. Doan stated she has asked many times that the Board have Doug Wolfgang come speak to them. She stated he has helped to preserve over 100,000 acres in Pennsylvania, and those acres do not go back into uses that are not agricultural when they are preserved under Pennsylvania’s Farmland Preservation Program. Ms. Tyler asked if that program would prohibit the Township from using the Farm for mulching; and Ms. Doan stated she does not feel it would, but she stated they do have a leeching problem, and she feels it is time to end that program on the Farm since it has become burdensome. She stated it started in 1974 when there were only a small amount of leaves, but it has grown exponentially as farms have been converted into housing with numerous trees planted resulting in so many leaves. She stated there is a leaf recycling program in Morrisville so there is no need for the Township to continue this program. She stated Mr. Stewart only wants to use a small amount of leaves, but the rest are a burdensome amount and could be taken off site.

Mr. Benedetto stated the issue he has with the Heritage Conservancy is he is concerned about their mission since Mr. Jeff Marshall of the Heritage Conservancy testified on behalf of the Vet. Mr. Benedetto stated he feels they should continue to investigate this, and he feels what they are discussing is adding a layer of protection. He stated he would like to see what Bedminster has done in the other Townships and have them come in and discuss that. He stated he feels this would confirm what Ms. Doan has indicated she wanted which was to have this extra layer of protection because she has indicated that she does not trust the Board to do the right thing.

Ms. Doan asked why the Board would not have faith in the Pennsylvania Farmland Preservation Program when it works throughout the State. Ms. Tyler suggested that they have Bedminster come in, and at the same time have Mr. Garton report back on the Pennsylvania Farmland Preservation program. Mr. Garton stated he will contact them to see if they will attend as well.

Mr. Benedetto stated his understanding was that they did not move forward with that group because the County Commissioners were not interested in moving it forward. Ms. Doan stated the County did not want to spend the money because they felt it would have been better spent elsewhere. She stated they should approach Doug Wolfgang to see if the State and Federal money is still available or the other option is that they will accept the land without giving the Township compensation and it would still be protected.

Ms. Beckelmen asked if the equine hospital does go through and they put the Patterson Farm in a land trust, what would happen in the future if the veterinarian came to the Board indicating she needed more acreage for her horses. Ms. Tyler stated it would depend on what the language says when they lock down the rest of the Farm. Mr. McLaughlin stated he feels that the veterinarian would not be able to do that. Ms. Beckelmen stated in the original Agreement of Sale for the equine hospital, Ms. Beckelmen felt that the vet was going to be able to purchase additional acreage as needed. Mr. Garton stated the restriction would be no subdivision so there could not be the loss of any additional land to anyone else. Mr. Benedetto asked if they could not state that it was agricultural and be considered to be permitted. Mr. McLaughlin stated the Bedminster Trust would have to agree to that. Ms. Beckelmen stated if they went with the Bedminster Trust, they would be land locking the veterinarian. Mr. McLaughlin stated he does not feel she would be able to expand. He also noted that they do not yet know whether or not that Agreement is valid or not. Mr. Garton stated he will discuss this shortly. Mr. McLaughlin stated his intent would be to land lock. He stated it would not just be the Board's decision to agree to this and it would involve Bedminster or the Pennsylvania Trust, and the point is to get it out of the Board's jurisdiction since that seems to cause great concern with people since the Board could change.



Mr. Smith asked Mr. Garton if they take the action being discussed would they be interfering with the contractual relationship with the veterinarian or with the ongoing litigation. Mr. Garton stated it would clearly not be with respect to the unrestricted area of the Patterson Farm. He stated if they included the area of the Satterthwaite property, and Dr. Bentz was found to be entitled to build a veterinary hospital, then the Township would have a consequence.

Ms. Sue Herman asked why they are not discussing the veterinarian situation before they make a Motion. Mr. Garton stated they are not going to vote on the Motion and they are now just going to talk to those two groups to get more information. Mr. Garton stated the way it has been left is that they will be inviting the Bedminster Conservancy to a Board meeting, and they would attempt to invite the Pennsylvania Farmland Preservation group to a Board meeting as well so that they would have all the information. Mr. McLaughlin agreed to amend his Motion. Ms. Herman stated she is concerned about the words “attempt to invite;” however, Mr. Garton stated he cannot subpoena them to attend. Ms. Herman stated they would like Doug Wolfgang and his group to attend because Ms. Doan has strong feelings about them looking into that group. Ms. Herman asked how they will develop the talking points for that discussion to include the Township staff, the Supervisors, and the stakeholders.

Mr. McLaughlin stated he would like them to come before the Board and tell the Board exactly what they are about and for the Township to discuss what they want. Mr. McLaughlin stated he feels the stakeholders would become involved in the negotiations of the very lengthy legal agreement. Mr. Garton stated he feels everyone is conversant enough to ask the right questions when they come in. Mr. McLaughlin stated he wants Bedminster and the Pennsylvania group to come in to make sure that their mandates match the Township goals. Ms. Herman asked if they are clear as to what their goal is collectively. Mr. McLaughlin stated his goal is that he does not want anyone ever to be able to develop the Patterson Farm. Ms. Herman stated if any of the other groups have a different goal, it would be important for them to express that; and she asked if that meeting is the time to express it versus talking about it beforehand. Mr. Garton stated he feels it should all be talked about in public.

Motion was withdrawn.

Ms. Linda Meyer, Pennsdale Drive, stated she feels this is an important opportunity for the Board, since the Farm and the buildings are a piece of history. She stated if they do not do this right, they can never get it back. She stated she would like to see everything preserved and the history maintained.

Mr. Smith stated it is almost 11:00 p.m., and they still have half of the Agenda to discuss. He asked that they consider tabling some of these items. Ms. Tyler asked that they continue at this time, and see how far they can get.

#### UPDATE ON APPEAL OF SUNFLOWER FARM, LLC

Mr. Garton read into the Record the contents of his letter to the Board of Supervisors dated October 5, 2015 on this matter (attached to the Minutes).

Ms. Tyler stated Mr. Garton has indicated that they would have been in protracted litigation arguing technicalities; and Mr. Garton stated having heard what Mr. Murphy said that his client would Appeal any Decision that was not based on the merits of her presentation to the Zoning Hearing Board, in his mind this would result in an inordinate delay bringing this matter to a conclusion. He stated this was the basis upon which he agreed to defer the standing issue and go right to the merits.

Mr. Benedetto stated this was never discussed publicly and no one ever authorized Mr. Garton to do that. Mr. Benedetto stated he found out about this because he is the Liaison to the Zoning Hearing Board and Barbara Kirk, the Counsel for the Zoning Hearing Board, was asked about this by one of the members, Mr. Gruen, and he read from the Zoning Hearing Board Minutes as follows: “She stated Mr. Garton and Mr. Murphy both attended. She stated it was scheduled specifically for the issue of the Township’s Motion to dismiss the Appeal on the basis that Dr. Bentz no longer had approval under the Agreement of Sale to proceed. She stated the two attorneys submitted a proposed Stipulation of Facts....”

Mr. Benedetto stated Mr. Garton indicated in the letter that he just read that he had submitted the Stipulation. Mr. Garton stated he handed it up, and it was a joint Stipulation because when you Stipulate to facts, both Parties have to agree.

Mr. Benedetto continued reading from the Zoning Hearing Board meeting as follows: “... and asked the Judge to take the matter under advisement and set a Briefing Schedule for the underlying Zoning issues.” Mr. Benedetto stated Mr. Gruen stated the following: “Mr. Gruen stated the Judge did not rule on the validity of the Contract; and Ms. Kirk stated while that is what they went for, the attorneys then changed their mind and asked the Judge to take it under advisement and let the process go through on the underlying Zoning Appeal.”

Mr. Benedetto stated they have not discussed this publically, and they were all under the impression, including Mr. Hirko and Ms. Doan, that this was going to be handled on September 10 one way or the other. Mr. Benedetto stated there was no



direction, but Mr. Garton indicated in his letter that he had direction to defer the action on the Motion to Dismiss, and that was the direction received from the Board of Supervisors. Mr. Benedetto stated he has gone through the meeting Minutes and not seen this.

Mr. Garton stated he never stated that he was given direction to defer, and it does not say that. Mr. Benedetto stated Mr. Garton is admitting that he did not have the approval of the Board. Mr. Garton stated when you are in Court, you do not have the opportunity to make phone calls and have a public meeting before you make a decision. He stated you have to react to the circumstances as they exist, and to do something which was consistent with the direction from this Board which was to get this matter over with as quickly as possible. He stated if they had pursued the avenue that Mr. Benedetto just mentioned, they may be lingering on this matter for two years by the time it came to a conclusion. Mr. Garton stated while he did not have specific authorization to do what he did, he made a decision based on his experience of thirty years practicing law with the general instruction that he had from the Board to bring the matter to a conclusion. He reminded Mr. Benedetto that they delayed this for fifteen months because Mr. Benedetto had stated Mr. Garton should not be involved so that it languished for fifteen months until he did get involved.

Mr. Benedetto stated he has the Board of Supervisors' meeting Minutes from December 2, 2013 and Mr. Garton unilaterally entered his appearance over Mr. Benedetto's objection. Mr. Benedetto stated the Board voted on it, and he had asked Mr. Garton to withdraw his appearance and he did not get a Second. Mr. Garton stated they agreed that he would not take an active participation in the matter. Mr. Benedetto stated Mr. Garton said that, but that was not the Board's position. Mr. Benedetto stated in the letter just read by Mr. Garton this evening, Mr. Garton stated, "I was advised by the Board of Supervisors that was I not to take an active role in the Appeal;" however, Mr. Benedetto stated the meeting Minutes from December, 2013 stated, "Mr. Garton stated the Township is not going to take an active role." Mr. Benedetto stated Mr. Garton was not directed by the Township to do that. Mr. Benedetto stated the Minutes also indicated that Mr. Stainthorpe stated that Mr. Garton made this decision on his own which is to enter an appearance. Mr. Benedetto stated Mr. Garton entered an appearance without authorization. Mr. Garton stated he felt it was prudent.

Mr. Benedetto stated Mr. Garton indicated that he did not have time to pick up the phone and call the Board, but he stated in Page 2 of his letter that he had conversations with Mr. Murphy at least as far back as May and June and that Mr. Murphy did not agree with Mr. Garton "that the Agreement of Sale had lapsed because of the conduct of the parties." Mr. Garton stated this was not a surprise to Mr. Garton that Mr. Murphy was opposed to this.

Mr. Garton disagreed, and he stated the only thing Mr. Murphy told him was that his client would Appeal irrespective of the outcome of that element of it. He added that was the revelation that made him consider an alternative approach to getting this matter over as quickly as possible.

Mr. Benedetto advised Mr. Garton that he never told the Board this, and they had a meeting on September 2 before the meeting on September 10; however, Mr. Garton stated he did not have that information on September 2. Mr. Garton stated what Mr. Murphy told him on the day of the Hearing was irrespective of the outcome such that if they lost on the Motion to dismiss, Mr. Murphy would be filing an Appeal to the Commonwealth Court. Mr. Garton stated he did not know that until the day he got there. Mr. Benedetto stated Mr. Garton wrote in his letter, "During the course of the preparation of the Stipulation of Facts..." and Mr. Benedetto stated Mr. Garton filed Stipulation of Facts in July and Mr. Murphy filed them in August. Mr. Garton stated the Stipulation of Facts was not filed with the Court until the day of the Hearing. He added that what was filed was the Motion and the Answer, and the Motion did not include the Stipulation of Facts. Mr. Benedetto stated everything was filed, and Mr. Murphy's response was the case law that Mr. Garton talked about which was Cohn/Weiss and Schwoyer/Fenstermacher which all indicate "because of the conduct of the parties among other things," and that Mr. Murphy disagreed with the Agreement of Sale. Mr. Garton stated the revelation which made him approach this differently was when they were in Court, Mr. Murphy told him that his client was committed to having the matter decided on the merits and would have Appealed an adverse decision on the Motion to dismiss for lack of standing.

Mr. McLaughlin asked Mr. Garton what about that statement made him realize they were in a bad position. Mr. Garton stated he is not saying they are in a bad position, but there were two factors that made him make the decision he made. He stated he knew that there were facts "out there" which would mitigate against being able to terminate the Agreement. He stated he was also told the day of the Hearing that she would Appeal to the Commonwealth Court if the Judge dismissed the matter because of a lack of standing. Mr. McLaughlin asked why that would be bad. Mr. Garton stated if there was an Appeal to the Commonwealth Court, it is at least a one year timeframe before you get an answer.

Mr. Benedetto advised Mr. Garton that he knew, based on what he said in the letter, that he was going to contest this because of the conduct of the Parties. Mr. Benedetto stated the Stipulation of Facts do not say anything other than what Mr. Garton already knew which is the reason he had an issue saying the Agreement of Sale had lapsed is because certain members of the Board of Supervisors had



conversations. Mr. Benedetto stated Mr. Garton knew about this back in May, June, August; and this was not new. Mr. Benedetto stated Mr. Garton did this without authorization.

Mr. McLaughlin asked Mr. Benedetto if he is mad because the Board did not get advised or mad about the decision. Mr. Benedetto stated that he is mad that there is a Township solicitor who he did not want being there in the first place because he thought he would make a “back-room” deal and have negotiations that he should not have had which he made very clear in December of 2013; and that Mr. Garton would go and have these discussions and circumvent the will of the public and the will of the Zoning Hearing Board. Mr. McLaughlin asked Mr. Benedetto if he is mad that he did not bring it to the Board of Supervisors or is he mad about the ultimate decision. Mr. McLaughlin asked Mr. Benedetto if he feels the decision Mr. Garton made was good or bad. Mr. Benedetto stated there is a process in place, and the Township solicitor is supposed to get the Board’s authorization, and he cannot just go and make a unilateral decision to do this because people then start questioning that decision. Mr. McLaughlin asked Mr. Benedetto if he feels Mr. Garton made the right decision; and Mr. Benedetto stated they will never know because this could have been handled in an expeditious manner by the Court on September 10, and they could have said you are right. Mr. Benedetto stated they were threatened by Mr. Murphy that they were going to Appeal this. Mr. Benedetto stated Mr. Garton knew this, and he stated Mr. Garton could have told the Board this in April, May, and June; but Mr. Garton never said anything about it.

Mr. McLaughlin stated he feels they have circumvented a lot of unnecessary legal bills by getting to the end decision. Mr. Benedetto stated he does not understand how certain members of the Board of Supervisors are telling him that they do not have a problem with the Township solicitor acting independently of anything that the Board decides. He stated the solicitor is supposed to come to the Board and he works for the Board and the public. Mr. Benedetto told Mr. Garton he is supposed to get authorization for these things. He stated he had a problem with this in December, 2013 when Mr. Garton went ahead and entered his appearance to it; and stated he has a problem with it today when Mr. Garton went ahead and made a decision. Mr. McLaughlin stated Mr. Benedetto is stating one person’s opinion, and there are five Supervisors. Mr. McLaughlin asked Mr. Benedetto if he feels they got to the right place, and Mr. Benedetto stated he has already indicated that they have no idea since the Judge did not get to rule on the merits. Mr. McLaughlin stated if he had ruled on it, the vet was going to Appeal it.

Mr. Garton stated he has never made any “back room deals,” and he takes offense to Mr. Benedetto’s comment. He stated he has been at the Township for many years, and he feels people who know him, whether they support him or not, know that he does not make “back room deals.”

Mr. Benedetto stated Mr. Garton had a private negotiation with Mr. Murphy outside of the public purview, and he calls that a “back-room deal.” Mr. Benedetto stated he said in December, 2013 if Mr. Garton is going to do these things, he should advise the Board of Supervisors and get their approval; and should not go out and make these deals. He stated Mr. Garton knew he had a problem with this back in December, 2013; and he did not want Mr. Garton there exactly for the reason that has occurred. He stated under the Township Code, Mr. Garton needs to get authorization for these things. Mr. Garton stated the Code states that the Township solicitor is in charge of all the legal matters.

Mr. Dobson stated they directed Mr. Garton to get this done as quickly and as expeditiously as possible. He stated they hire him to look out after their best interests, and he has done that. Mr. Dobson stated Mr. Benedetto is one person, and the rest of the Board asked that he get this done as expeditiously as possible. Mr. Dobson added that he does not feel two more years is acceptable to anyone.

Mr. Benedetto stated under the Second Class Township Code Article 11, Section 1103 reads: “Only the Board of Supervisors may authorize the Township solicitor to act on their behalf.” Mr. Dobson stated they did. Mr. Benedetto stated they did not authorize him to make a “motion to quash for the Agreement of Sale to lapse.” Mr. Benedetto stated Mr. Garton was there for the purpose of a motion to dismiss, and what he ended up saying was “we are going to put that on hold.” Mr. Benedetto stated in the letter Mr. Garton stated they did not proceed with that, and he deferred action on the Motion to dismiss; and that was Mr. Garton’s unilateral decision. Mr. Garton agreed he did make that decision.

Mr. Benedetto stated there was one thing that Mr. Garton stated in the Stipulation of Facts which should be very troubling to members of the public because it says, “Certain members of the Board of Supervisors,” which is actually inconsistent with what Mr. Garton said because he wrote in the letter, “representatives of the Township.” Mr. Benedetto asked Mr. Garton if it was just certain members of the Board of Supervisors or was it members of the Township. Mr. Garton stated he would say that Board members are representatives of the Township. Mr. Benedetto asked if there was anyone else besides Board members who engaged in private negotiations. Mr. Garton stated he is not aware of any other conversations with anybody else. Mr. Benedetto stated because certain conversations took place this was one of the reasons that Mr. Murphy said was why he was opposed to the Stipulation. Mr. Benedetto asked Mr. Garton who the “certain members” are, and Mr. Garton stated he knows who one member was. Mr. Benedetto asked if he would reveal that because he did not know about it, and Mr. Garton stated it was the late Mr. Stainthorpe. Mr. Benedetto asked if there were any others, and Mr. Garton stated there were not that he was personally aware of. Mr. Benedetto stated these certain conversations ended up jeopardizing this, because this was one of the



reasons that Mr. Murphy used for his opposition to the Agreement of Sale lapsing which was the private discussion between the vet, her attorney, and Mr. Stainthorpe; however, Mr. Garton stated he has no idea who was there other than he knows that Mr. Stainthorpe and Mr. Murphy had a conversation. Mr. Benedetto asked Mr. Garton if he knows the time frame of that, and Mr. Garton stated he does not as he was not present nor was he privy to those conversations.

Mr. Garton stated there is going to be a decision on the merits which he feels will be early next year. Mr. Garton stated he agrees that the Zoning Hearing Board made the right decision. Mr. Dobson stated he feels six months is much better than two years.

Ms. Donna Doan stated the Zoning Hearing Board made their decision in 2013, and she asked why they did not give the check back and say it was over. Mr. McLaughlin stated it was on Appeal. Ms. Doan asked if there was a discussion why the check should not be returned, and Ms. Tyler stated there was not - it just was not done. Ms. Doan stated it was after Patterson Farm Preservation started to restore the garage that they got the notice that there was now a “no touch zone,” because Mr. Murphy stated there would be an Appeal. Ms. Doan stated Patterson Farm Preservation was assured that it was going to go away, and they should not worry about it; and they then started to do some things to the barn to upgrade it. Ms. Doan asked if everyone knew that there were negotiations, since when Patterson Farm Preservation was negotiating with the Board to restore things, they had no knowledge that there was any conversation still going on with the vet. Board members present this evening indicated they did not have any conversations with the vet.

Mr. Benedetto stated the letter makes a point of “members of the Township” as well, and he asked Mr. Fedorchak if he had any discussions with the vet or her attorney; and Mr. Fedorchak stated he did not. Mr. Benedetto asked why the letter indicates plural, “certain members,” but as far as they know the only person Mr. Garton knows of was Mr. Stainthorpe; and Mr. Garton stated that was the only one he was aware of. Mr. Benedetto questioned why it was plural.

Ms. Doan stated it does not surprise her to hear Mr. Stainthorpe’s name mentioned as the negotiator. Ms. Tyler asked if there is something illicit about Mr. Stainthorpe talking to Mr. Murphy about a pending litigation, and Mr. Garton stated there is not. Ms. Doan questioned why they would continue to negotiate with someone after the Zoning Hearing Board denied it. Ms. Doan stated Mr. Garton’s letter said it was based upon the conduct of the officials who negotiated. Mr. Garton stated it was not negotiation – it was a conversation/discussion.

Mr. Benedetto stated the reason this was not a good idea was because it ended up with the case not being dismissed. Ms. Doan stated the vet's attorney used this because even though the Agreement of Sale expired two year ago, they were going to keep going and felt justified because the Township kept negotiating with them. Ms. Doan asked if they are saying that there has been no negotiation since Mr. Stainthorpe died, and Mr. Benedetto it is not stipulated in the facts; and Mr. Garton stated there is no stipulation as to specifics.

Ms. Doan stated going forward they hope that the Judge will see it the Township's way; but she asked what would happen, if that does not happen. Mr. Garton stated then the neighbors, the Township, and the Zoning Hearing Board can Appeal that decision.

Mr. Benedetto stated in Mr. Garton's letter of October 5, he wrote: "Deferring action on the motion to dismiss for lack of standing and instead proceeding with the appeal on the merits does not mean that the Township has waived its right to assert its position..." and Mr. Benedetto asked for clarification on this. Mr. Garton stated it refers to the Township's position that the Agreement has lapsed. He stated they have not lost this – they have deferred it. Mr. Garton stated if the Judge elected to sustain the vet's Appeal, the Township would then proceed on the merits of whether she still had standing. Mr. Garton stated that would be on the assumption that the vet will win her Appeal, and he does not feel that will happen.

Ms. Doan asked if the Township could give the vet back her deposit, and Mr. Garton stated he does not feel that would make any difference at this point. Ms. Doan stated she does not understand why the vet is so firmly committed when she does not have clients, she does not have a practice, she does not have employees, and she does not have equipment. It was noted that she is a vet. Ms. Doan stated she said at the Zoning Hearing Board that she would have to hire employees, and she does not understand her commitment. Ms. Doan stated she herself is committed to Patterson Farm and wants to see it preserved for the next 300 years, but the vet wants to "make a profit off of ruining it." Ms. Doan stated if the vet is a medical person, she questions why she is naming it Sunflower Farms when that has nothing to do with farming.

Mr. Ed Gavin, 904 Sensor Road, stated this seems to be turning on the fact that somebody negotiated beyond the Zoning Hearing Board; and this is why they are in the position that they have to "surrender." Mr. Benedetto stated this was one of the arguments made by the vet that someone engaged in negotiations so that the Agreement of Sale would not lapse, and there is case law to back this up. Mr. Gavin asked why were they not advised by counsel to give her the money back. He feels they are not now able to rule on the facts because of negotiations by somebody in the Township and by the lack of giving her money back. Mr. Garton stated the other



was not calling for a Settlement date. Mr. Gavin asked why they are “folding” when someone threatens them. Mr. Garton stated they are not folding, they are trying to get to the end in a much more expeditious fashion. Mr. Garton stated he was also not involved in anything beyond the December, 2013 discussion about anything to do with Sunflower Farms; and he only got involved again last spring when questions were asked. He stated the Parties are proceeding in an expeditious manner to end it on the merits which will end it in all probability.

Mr. Tom Conoscenti, 1595 Ginko Lane, stated he is present on behalf of the neighborhood group; and added they have had Party Status throughout the whole proceeding. He stated they understand the importance of resolving this as quickly as possible, but they do not understand why if they had the opportunity to dispose of the matter with the ruling on the procedural issue on September 10 they did not do so. Mr. Garton stated that would not have been the end, and she would have Appealed to Commonwealth Court. Mr. Conoscenti stated perhaps she would have done that; however, Mr. Garton stated he was told explicitly that she was going to Appeal an adverse decision. He stated that is when it reverted to dealing with it on the merits, and it was unlikely she would Appeal that because she had her day in Court on the merits.

Mr. Conoscenti stated he has discussed this with attorney, John VanLuvanee, who indicated he does not understand the Township’s position. Mr. Garton stated Mr. VanLuvanee does not know about the conversation with Mr. Murphy. Mr. Benedetto stated this is why he should not have those conversations in private. Mr. Conoscenti stated his group is filing a Brief; and Mr. Garton stated Mr. Murphy, and the Zoning Hearing Board will also be filing Briefs.

Mr. Conoscenti stated with regard to the wording from the Stipulation of Fact that refers to “members of the Board of Supervisors,” he would ask that they poll the Board whether they were part of these conversations attributed by Mr. Murphy. Mr. Benedetto, Mr. Dobson, Mr. McLaughlin, and Mr. Smith stated they did not have any conversation with them. Ms. Tyler stated Mr. Murphy called her and asked if they would consider amending the Ordinance to allow for medical use or whatever they were looking for, and she stated “no.”

Mr. Zachary Rubin stated that except for Mr. Smith, this Board subdivided Patterson Farm and sold the Satterthwaite House to Sunflower Farm. Ms. Tyler stated it was Mr. Smith’s Board that subdivided it. She agreed that they did enter into an Agreement of Sale. Mr. Rubin stated they entered into an Agreement and now they are trying to get out of the Agreement. Mr. McLaughlin stated the Zoning Hearing Board denied her request, and the Agreement was contingent on Zoning Hearing Board Approval. Mr. McLaughlin stated the Township has spent legal funds defending the Zoning Hearing Board’s decision. Mr. Rubin stated he stands corrected.

Mr. Garton stated this was the second effort to sell the property; and the prior Board they did a solicitation for Bids, but they received no Bids.

Ms. Elizabeth Beckelmen asked how much money has been spent in legal fees. She stated she was before the Board of Supervisors two years ago and asked them not to subdivide the Farm, and she was told that they had to because it was too much money to repair the house. Mr. Fedorchak was asked to find out how much they have spent on legal fees.

Mr. Benedetto asked Mr. Garton to clarify what he meant by his statement, “if the Township was to take action to divest the property pending an Appeal to the Commonwealth Court;” and Mr. Garton stated if the Township entered into an Agreement with the National Lands Trust to encumber the property with a restriction such that the use the vet intended could not be used, she could possibly have damage claims against the Township. Mr. Benedetto asked about Patterson Farm Preservation, and Mr. Garton stated it would be any third party entity. Mr. Garton stated he does not feel there would be an issue with respect to doing repair work since there is no consequence to that; but if some entity were granted a Lease or a License or some other legal right to be there on a more permanent basis such that if the vet were successful and she could not operate her facility, the Township might have to pay damages.

Ms. Helen Heinz stated she feels Mr. Garton has always acted in the interest of the Township. She asked what would happen if the vet prevails and the Judge decides the sale can go through. Mr. Garton stated the Judge could decide that the Zoning Hearing Board made a mistake and she is entitled to the Variance; however, there is a heavy burden to make that decision. He stated if that should happen the Township would proceed on the merits of whether she still had standing. He stated if she is successful there, there could be Appeals to the Commonwealth Court by the residents, he assumes the Zoning Hearing Board, and possibly the Board of Supervisors as well. Ms. Heinz asked if the vet made a blanket decision to abandon the Variance request and just take it on the basis of an R-1 lot, would she have the right to sell it; and Mr. Garton stated she would have no right to purchase it under that premise. He stated she has no independent right aside from the Variance related issues.

Ms. Tyler asked Mr. Garton what are her chances of success of overturning a 5-0 Zoning Hearing Board decision; and Mr. Garton stated in his opinion, it is highly unlikely that she will succeed on the merits. He stated one reason is because the Zoning Hearing Board has a very complete Record, the Decision was very well crafted, five Board members were in favor, and a Variance requires the proving of a hardship; and there was never a hardship proven that would give rise to any relief.



Mr. Adrien Costello asked if they could give the vet her check back, and Mr. Garton stated he does not feel they should do that at this time.

Mr. Ben Weldon asked who was responsible to have the check returned. Mr. Garton stated it was not his responsibility. Mr. Weldon asked if they should poll the Board on this. Mr. Garton stated he assumes the Board probably did not have a recollection of the Settlement date issues. Mr. McLaughlin stated he felt it had to be determined whether the Contract was still valid which is probably why they did not return the money since they might still have a valid Contract. Mr. Smith asked if the monies were deposited, and Mr. Fedorchak stated he will have to check into this.

**TABLING OF OPEN SPACE DISCUSSION, ELECTRONIC MEDIA ADVISORY COMMITTEE WEBSITE PROPOSAL, APPROVAL OF THE 2016 PRELIMINARY BUDGET, ENGINEER REPORTS, DISCUSSION OF COMMUNITY CENTER FINANCING, SUPERVISORS REPORTS, AND CONSIDERATION OF SALT BID, SNOW PLOW BID, AND LEAF COLLECTION BID**

Mr. Smith stated due to the late hour he would move to Table the Open Space Discussion, Electronic Media Advisory Committee Website Proposal, 2016 Preliminary Budget, Engineer Reports, Community Center Financing, Supervisors Report, and Consideration of Salt Bid, Snow Plow Bid, and Leaf Collection Bid. This was agreed to by the Board.

Mr. Garton stated the Board met in Executive Session for thirty minutes prior to the meeting to discuss the two Zoning Hearing Board matters and personnel matters.

**ZONING HEARING BOARD MATTERS**

With regard to the Hugo Salinas, on behalf of the Christian Brothers Automotive Corporation Variance request for the property i/n/o Jinu J. Mathew located at the southwest corner of Dobry and Oxford Valley Roads in order to permit construction of an automotive service repair store, Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried that the Township solicitor appear in opposition.

With regard to the KS Greenday, on behalf of Erica and Dan Umstead, Variance request for the property located at 1322 Albright Drive in order to permit construction of an in-ground pool and patio resulting in greater than permitted impervious surface, it was agreed to leave this matter to the Zoning Hearing Board.

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**APPROVE EXTENSION REQUESTS OF FIELDSTONE AT LOWER MAKEFIELD,  
JENNINGS TRACT, AND DOGWOOD DRIVE**

Mr. Dobson moved, Mr. McLaughlin seconded and it was unanimously carried to grant the Extension requests of Fieldstone at Lower Makefield, Jennings Tract, and Dogwood Drive.

**OTHER BUSINESS**

Mr. Zachary Rubin stated if they do postpone the discussion of the Electronic Media Advisory Committee Website Proposal to the next meeting, he will not be present on October 21; and he asked if they could postpone it to the November 4 meeting. Ms. Tyler agreed and asked that Mr. Rubin send the Board all of the proposals he received including the one that he wants them to consider.

There being no further business, the meeting was adjourned at 11:50 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jeff Benedetto", with a long horizontal flourish extending to the right.

Jeff Benedetto, Secretary