

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – OCTOBER 4, 2023

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on October 4, 2023. Ms. Blundi called the meeting to order at 7:40 p.m.

SWEARING IN OF SUPERVISOR COLIN W. COYLE

The Honorable Gary Gilman was present and swore in Colin W. Coyle as Township Supervisor.

Ms. Blundi called the Roll.

Those present:

Board of Supervisors:            Suzanne Blundi, Acting Chair  
                                         Daniel Grenier, Acting Vice Chair  
                                         John B. Lewis, Secretary  
                                         James McCartney, Treasurer  
                                         Colin W. Coyle, Supervisor

Others:                                David W. Kratzer, Jr., Township Manager  
                                         David Truelove, Township Solicitor  
                                         Isaac Kessler, Township Engineer  
                                         Kenneth Coluzzi, Chief of Police  
                                         Derek Fuller, Public Works Director  
                                         James Majewski, Community Development Director

CELLCO TOWER ANNOUNCEMENT

Mr. Kratzer stated there was communication with Counsel for CellCo doing business as Verizon regarding the Zoning Hearing Board Application to construct a cell phone tower at 375 Stony Hill Road on the property owned by Congregation Beth El. He stated they are intending to request a further Continuance of the matter before the Zoning Hearing Board, and it is not expected that it will be heard at the next meeting of the Zoning Hearing Board.

COMMUNITY ANNOUNCEMENTS

Ms. Blundi stated during this portion of the meeting residents and Youth Organizations may call in to make a special announcement or may contact the Township at [admin@lmt.org](mailto:admin@lmt.org) to request a special announcement be added to the Agenda. There was no one wishing to make an announcement at this time.

Ms. Blundi stated the Environmental Advisory Council will be holding their Styrofoam/Wine Corks/Pill Bottles/Batteries Recycling Event on Saturday, October 28, 2023

Ms. Blundi stated the EAC is also working on revitalizing our Bird Town Program. If you are interested in being a part of that please contact Jeanne Bray at [jjyardley56@gmail.com](mailto:jjyardley56@gmail.com).

Ms. Blundi stated Friday night is the Monster Mash at the Community Center. It will be a fun-filled event. Wear costumes, there will be a pumpkin patch, and “be prepared to boogie.”

Ms. Blundi stated Lower Makefield Township will be hosting its fourth Blood Drive of the year on Friday, November 3 from 12:00 p.m. to 5:00 p.m. in the meeting room at the Township Building, 1100 Edgewood Road, Yardley, PA 19067. To sign up or get more information log onto [RedCrossBlood.org](http://RedCrossBlood.org) and enter Sponsor Code: LowerMakefield. There is a link on the Township Website.

Ms. Blundi stated the Annual Veterans Parade and Ceremony will be held this year on November 4, 2023 being coordinated by the Lower Makefield Veterans Committee. The parade will run along Edgewood Road from Whitehall Drive to Heacock and then there will be a Ceremony at Veterans Square. The parade starts promptly at 1:00 p.m.

Mr. Kratzer stated Lower Makefield Township and Yardley Borough will be hosting an e-Waste Recycling Event on Saturday, November 11, 2023 from 9:00 a.m. to Noon in the parking lot at the Pool at LMT, 1050 Edgewood Road, Yardley, PA 19067. Additional information can be found on the Township Website.

Mr. Lewis stated there will be a Slate Hill Cemetery event next Saturday from 4:00 p.m. to 8:00 p.m. where there will be historic re-enactments.

APPROVAL OF MINUTES FOR SEPTEMBER 14, 2023 AND SEPTEMBER 15, 2023

Mr. Lewis moved and Mr. Grenier seconded to approve the Minutes of September 14, 2023 and September 15, 2023.

Ms. Blundi stated there are two sets of Minutes for September 15, one for the portion of the meeting that she was not present for and one for the portion of the meeting that she was present for. She asked Mr. Truelove if she is able to vote on these. Mr. Truelove stated you do not have to be present to vote to approve the Minutes.

Motion carried unanimously.

APPROVAL OF MINUTES FOR SEPTEMBER 20, 2023

Mr. Lewis moved and Mr. Grenier seconded to approve the Minutes of September 20, 2023.

Mr. Coyle stated since he does not have a copy of the September 20, 2023 Minutes he will abstain from voting.

Motion carried with Mr. Coyle abstained.

PARKS & RECREATION

LMT Website Launch

Ms. Tierney was present and announced that the new Website has been launched. She stated they spent a lot of time working to make it easy to find things on the Website, and they used a lot of resident feedback of what residents were asking for and complaints. She stated they wanted to make it easy for residents to access information. She stated the Website has the ability to get updates on what residents want to know. She noted the top right-hand corner of the LMT

Website page where you can Sign up for an account and choose the type of news you get so that every time there is an update on the pages selected, you get an e-mail. She stated it is a new way to provide information.

Mr. Lewis asked if the search feature has been resolved so that you are able to search all of the items on the Website including the Minutes. He stated there have been issues with the Search Function previously. Ms. Tierney stated the Search Function is much more user-friendly, and the issues with it have been resolved

Mr. Kratzer thanked Ms. Tierney for her work on this and leading this effort internally.

Mr. Grenier stated this is being hosted by an outside source, and Ms. Tierney stated it is hosted by Catapult Web. Mr. Grenier stated he understands that they host a lot of other Townships' Websites, and Ms. Tierney agreed. Ms. Tierney stated anytime Catapult Web updates the system for any of the other Townships, we get that access as well.

Authorize the Issuance of a Request for Proposals for Memorial Park Phase 3 Design Services

Ms. Tierney stated the Board was provided this information in their packet. She stated at this point they are just looking to issue an RFP to get prices for design and construction services for the Grant Project that we have at Memorial Park East.

Mr. Lewis moved and Mr. McCartney seconded to authorize the issuance of a Request for Proposals for Memorial Park Phase 3 Design Services.

Mr. Kratzer stated this is the project for which the Township applied for a State-wide Local Share Grant, and we have been awarded \$900,000 of external funding to advance this project. The Township's match as part of that Application is \$139,675. He stated the end of the Grant term is June 30, 2026. He stated he understands that this is a project that has been discussed over the course of upwards of two decades.

Mr. Lewis stated this does not include maintenance to the Secret Garden padding. Ms. Tierney stated it does not, and it is specific to the Grant on the east side of the Park.

Mr. Kratzer stated there was a scope of work that was contemplated as part of the Application, but he agrees that there are other needs for existing facilities that do involve Capital replacement. He stated he is not sure we have the ability that once the design work is done to perhaps incorporate some additional elements and amend the scope to address some of those additional issues.

Mr. Kessler stated with respect to work they have done with DCED on these Grants, the time from when they award the funds to when the projects actually come to fruition, it is not too uncommon to have requests to change part of the project. He stated you have the ability to outline what the changes might be that you want to incorporate to see if there is some additional funding to add onto what they have already awarded or to replace some funding. Mr. Kratzer stated there is no guarantee, but there is that potential. Mr. Lewis stated that might be a Bid Alternate when we go to the RFP for construction since this is just design, and Mr. Kratzer agreed.

Mr. Grenier stated we have three years to implement this project. He stated that this will include Township resources to coordinate with any consultant who would win the RFP. Mr. Grenier stated he agrees that this will enhance the Park, and he is excited that we received the Grant; but he will vote no on doing this now since it involves directing Township resources toward a Park project when there are so many stormwater management projects necessary right now. He stated he does not want to do anything that diverts Township resources from fundamental needs at this time since we do not have that many resources, and he wants to make sure we stay focused on our primary needs at this time. He stated once we get through that, we can go back and deal with other things.

Mr. Lewis stated we may be able to address this concern by authorizing the issuance and set a future date certain for that to occur possibly in January or February. Mr. Grenier stated he would be willing to consider that in January once we know “how everything else went.”

Mr. Coyle stated he feels Mr. Lewis’ proposal to authorize the RFP for issuance at a later date lets us move forward a little bit, does not dedicate resources at this time, and gives the Board the opportunity to change the date later if necessary.

Ms. Blundi asked Mr. Kratzer if “implement” means start or complete; and Mr. Kratzer stated that would be the conclusion of the Grant term, and it would be expected that the project would be completed by that time.

Mr. Coyle moved to amend the Motion to approve it effective January 15, 2024 with all timeline dates to follow off that adjusted RFP release date.

Mr. Lewis and Mr. McCartney were in favor of this Amendment.

Motion carried with Mr. Grenier opposed.

#### OTHER BUSINESS

##### CellCo Partnership d/b/a Verizon Wireless Zoning Hearing Board Application

A gentleman asked about discussion on the CellCo Partnership Application. Mr. Grenier stated that item is still listed on the Agenda under Other Business and the earlier announcement was just made to advise the public as we had just received that information.

#### ENGINEER'S REPORT

Mr. Kessler stated the Engineer's Report was provided to the Board last week.

##### Approval of Change Order #1 for the 2023 Liquid Fuels Road Program as a Credit to the Township in the Amount of (\$6,397.00)

Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried to approve Change Order #1 for the 2023 Liquid Fuels Road Program as a Credit to the Township in the amount of (\$6,397.00).

##### Approve Pay Application #1 for the 2023 Liquid Fuels Road Program in the Amount of \$847,913.77

Mr. Kessler stated this does consider the negative Change Order to bring the total Contract down. He stated Pay Application #1 is for items completed by the contractor to date for this year's Road Program. He stated a 2% retainage is held with the Contract as it is still ongoing. He stated with this payment, the remaining Contract is \$309,902.36.

Mr. Lewis moved and Mr. Grenier seconded to approve Pay Application #1 for the 2023 Liquid Fuels Program in the amount of \$847,913.77.

Mr. Grenier asked if everything that is being paid for has been inspected and looks good, and Mr. Kessler agreed. Mr. Kessler stated part of the process of confirming the Road Program is Certification Tickets for the asphalt and for the concrete. He stated one of the reason the concrete item is not on this Payment is because the contractor is still providing those. Mr. Grenier asked if the remaining \$300,000+ is all related to concrete; and Mr. Kessler stated it is not and it includes other items as well. He stated the Payment Certificate lists the remaining items in the Contract including the concrete sidewalk, leveling course if needed, and some base repair areas if needed. Mr. Kessler stated if those are not needed, there would be a reduction for some of those items.

Mr. Lewis asked if the milling of all the roads has been completed, and Mr. Kessler agreed. Mr. Lewis asked how many roads are outstanding for paving; and it was noted that Mr. Fuller has indicated that all of the paving has been done.

Motion carried unanimously.

#### LMT Drainage Stormwater Management Project Updates

A slide presentation was shown of an overview of the Drainage Projects. An aerial of the full drainage area was shown. Mr. Kessler noted the Maplevale neighborhood, and the red box is the area where the emergency restoration had to be done. He stated the white boxes show the stream areas that are involved with the Permitting for not only the emergency but also the additional Permitting with DEP for stream clean-outs. He stated that follows along both sides of Taylorsville, and the stream eventually goes to the Canal and out to the Delaware River. He stated the blue area is the Highland Drive portion that comes down to Taylorsville, and that was originally referred to as Phase 2 of the overall Maplevale neighborhood drainage project. Mr. Kessler stated a few months ago the Board voted to move along with the project regardless of the Grant that it was originally waiting for. He stated that is the drainage project that they are looking to move into the Bidding phase and get out as quickly as they can. He stated the pink area is a large area, and that is the comprehensive watershed analysis of the entire drainage area. He noted the one large area that comes down to the point where it goes into the stream.

Mr. Kessler noted the point where it crosses Taylorsville toward 295/Scudder Falls Bridge; and when the large storms were experienced, they over-topped the banks, and it goes right toward the Maplevale. He stated Maplevale itself is not in that boundary; but when it over-tops, the drainage area expands and includes everything going down to the Canal.

Mr. Kessler stated the restoration project on the lower area of Maplevale Drive was substantially completed as of September 21. He stated there is continuing monitoring and some items that need to be addressed to complete what was Permitted to be repaired. He stated the re-submissions to DEP for the Emergency Permit, the General Permit, and all the Permitting that they require is being pushed through as quickly as possible. He stated we have received responses from DEP and DCNR where they reiterated what was conveyed before the letter which was that they would not permit a second pipe discharge to the same location without a larger look at an analysis of how the water gets to that portion of the Canal.

Mr. Grenier asked that Mr. Kessler and Mr. Fuller continue to work with the residents to make sure that any “micro-grading or fixes that may need to be handled sharper than what the contractor had” so that there is not a lot of ponding or puddling as these are back yards that people want to use. Mr. Grenier stated with regard to the pipes, we have the one pipe that was replaced and a better outfall. He stated there is another pipe that is much older that could potentially be replaced and will likely need a Maintenance Permit. Mr. Grenier asked if it would be possible to replace that older pipe in its present location and slightly upsize it to get more capacity. He stated this could be a way to get the same effect without having to send letters back and forth asking for a third pipe. Mr. Kessler stated they are looking at the older pipe as part of the process. Mr. Grenier asked if there is a schedule as to when we can start to go through the process for the replacement pipe assuming the Board is in favor of this option; and Mr. Kessler stated that process is currently ongoing, and they are updating the schedule that was provided to the Township for the Website, and that will continue to be updated as to discussions about the Permitting process.

Mr. Grenier stated he feels that instead of trying to put in the third pipe an attempt to change out the older pipe and make it bigger that might go much faster with the same positive effect.

Mr. Grenier thanked Mr. Rishel for the letter he wrote to the DCNR in response to their letter to the Township.



Mr. Kessler stated the next tier of the project which has been started and will continue as we meet further with DEP is the clearing of the stream along both sides of Taylorsville Road. He stated that has been done substantially by the Township Public Works staff clearing out the wooded debris and things that were observed to be obstructions in the stream. He stated Phase 2 of that is clearing the gravel bars and other things from the waterway. He stated that requires DEP Permitting, and they are meeting with them on October 12 to discuss what they are looking for so we can have the quickest path forward.

Mr. Grenier stated a significant portion of the southern half, southwest of Taylorsville, is on private land; and he asked if we have engaged those land-owners to make sure that there onboard since typically they would have to be co-signers of the Permit. He stated one property in particular covers most of that area. Mr. Kratzer stated there has been discussion with the property owner in terms of gaining access and talking about those issues, but there is no agreement at this point as additional details need to be discussed including not only gaining access but also for other opportunities that may exist on the property as we go through the more-comprehensive drainage area assessment that LandStudies is performing on behalf of the Township.

Mr. Grenier asked if going through that process we find obstructions or other un-Permitted activities that may impact flows along the stream, are we addressing those. Mr. Kessler stated the meeting on October 12 will address a number of things, and there is a threshold as to how far the linear footage of the stream is for the Permit they issue; but beyond that it would involve Army Corps Permitting and a more-lengthy process. He added the coordination with other parts of the stream would be something that we will continue to look at once we get confirmation as to how far we could go on the Township side. He stated if there are things identified as obstructions to the water flow, they would work with Township Code Enforcement.

Mr. Grenier stated there are some stretches of that stream which are owned by PennDOT and would typically fall under their purview to maintain; however, the Township has been doing it. He stated PennDOT has pushed back indicating that some portions of the stream are not on their property, "but we know otherwise." He stated he hopes we are coordinating with PennDOT so that they feel compelled to work cooperatively with the Township to address their own property. Mr. Kessler stated he is hopeful about that as well. He stated he knows that both Mr. Fuller and Mr. Kratzer have had numerous conversations with PennDOT already and will continue to do that throughout the process.

Mr. Kessler showed a slide with regard to Project C – the Highland Drive Drainage Project. He stated it is focused on trying to improve the drainage inlets, pipes, and capacity of water that is coming down Highland Drive toward Taylorsville. He stated originally when it was pursued with the Grant, it was separated out of Phase 2 of the overall look at this area of the Township. He stated they want to proceed with this as quickly as they can. He stated they have the preliminary engineering calculations and the designs for the drainage improvements and are looking to provide this to the Township for feedback within the next day or two. He stated following that, they will look to have a neighborhood meeting to get feedback from the residents who live along this area so that when the Bid package is put together, it incorporates everything we want to see.

Mr. Kessler showed a slide of Project D which is the overall, comprehensive watershed analysis. He stated the Township has brought in LandStudies to look into the overall drainage area with the idea being that not everything for flood mitigation can be solved where all the water is getting to at the lowest level, and they are looking at areas that could mitigate and manage stormwater better throughout the path that winds up at the Canal and the River. He stated this should establish some areas that can be addressed either short-term or long-term.

Mr. Kratzer stated this was discussed at the previous meeting and there will also be notification through Listserv which includes those who have expressed an interest in this issue who are primarily those who experienced damage as a result of the storm event on July 15. Mr. Kratzer stated there will be a Community Listening Session on October 11 at 6:30 p.m. at the Lower Makefield Township Community Center located at 1050 Oxford Valley Road. He stated the purpose of that meeting is to permit the public to learn about, in a little bit more detail, the work that LandStudies will be doing as part of the comprehensive assessment and will also provide residents an opportunity to share relevant concerns and observations as LandStudies begins their work.

Mr. Kratzer stated if residents have photo documentation or items they would like to submit prior to that session, they can be e-mailed to [admin@lmt.org](mailto:admin@lmt.org) and those will be provided to LandStudies in preparation for the session. Mr. Kratzer stated LandStudies will start to walk the stream corridor during the day on October 11 so they will have some context going into that session.

Mr. Kessler stated they will continue to provide updates as the projects move along.

Mr. Grenier asked if the October 11 meeting will be available “electronically.” Mr. Kratzer stated while that could be set up, the meeting is not intended to be a presentation format, and there may be periods of the meeting where it would be difficult for those who are not physically in attendance to see such as a map laid out on a table. He stated people would be able to hear the explanation of the scope of work as well as the comments that other residents are making. There would also be the ability for residents to call in and share their perspectives. Mr. Kratzer stated the Municipal Building meeting room was not available due to a conflict.

Ms. April Bollwager-Cloer, Maplevale Drive, stated Maplevale is outside of the watershed of Buck Creek, and Maplevale is its own watershed. She asked if LandStudies will be walking through their neighborhood as well; and Mr. Grenier stated Maplevale is a big part of why this is being done, and it will not be left out. Ms. Cloer stated since she works from home, she would like to take LandStudies onto her property when they walk the area. Mr. Kratzer stated they can coordinate with LandStudies a time to look specifically look at Maplevale, and will be in communication with Ms. Cloer to make sure that she is available.

Ms. Cloer asked what will be the deliverable be from LandStudies and once the Report is received, where will the funds come from to act on what is proposed. Mr. Kratzer stated the issue of funding will be an on-going discussion. He stated the nature of their scope is more global throughout the entire drainage area, and they will identify opportunities based on their experience to address the upstream conditions in the interest of trying to prevent in more significant storm events the water spilling over from the drainage area shown on the map Mr. Kessler presented as the Maplevale drainage area. Mr. Kratzer stated once those are identified, there will have to be additional engineering work and additional Permitting work and discussion on funding and financing as well. Mr. Kratzer stated there will be project prioritization.

Ms. Cloer asked for an update on the grate drain on the corner of Maplevale and Taylorsville. Mr. Kessler stated they are working with Public Works to have that completed soon. He stated they need to make the box a little more robust to have the grate put on without being compromised. He stated the elevation of the grate has been addressed and they need to get the grate on there at the elevation. Ms. Cloer asked for a “ballpark” of when this will be completed as she would like to know when their street “will not look like a construction site and be dangerous to our families.”

Mr. Kessler stated they wanted to have an option that did not involve a lot of re-paving around that inlet, and he feels we have reached that point. Ms. Cloer stated she feels the whole street will need to be repaved at this point.

Mr. Grenier asked if there was design that needed to be done with the repairs, and Mr. Kessler stated it is more on the construction side. Mr. Grenier stated we have looked at “manufacturing and what needs to be done, and we have a piece of something that we are going to install.” Mr. Kessler stated the last piece is for him to follow-up with Mr. Fuller and confirm the final option that they feel will work best. Mr. Fuller stated we are working out the constructability aspect of it. He added that a solution was designed, and they are trying to minimize the thickness and not destroy all of the asphalt and get positive drainage. Mr. Grenier stated it appears that we are in the final design phase, but nothing has been ordered yet. Mr. Fuller stated it should not take months of lead time for what they need to order, but they need to decide on the final product that will work best. Mr. Grenier stated he feels we need to do this quickly.

Ms. Cloer stated “two weeks ago it was be done quickly.” She stated she appreciates that it was leaned up on the curb so water could get under it when the storm came over the weekend; but a lot of the residents left the neighborhood for the weekend, and we need to know that this is going to be fixed although they do not want the design to be rushed. Ms. Cloer thanked Mr. Fuller for coming out and checking on the yards. Mr. Kratzer stated there have been discussions back and forth since the last meeting. Ms. Cloer stated the neighbors are frustrated after dealing with this for so long.

Ms. Larissa Luzeckyj, 18 Maplevale, thanked Mr. Fuller for coming out yesterday, and she looks forward to hearing about how he plans to improve the condition of the lawn. She asked if they have come up with a schedule for the maintenance of the creek on a periodic basis. Mr. Fuller stated the Public Works Department is aware of the situation, and it will be discussed during the Budget process recognizing that this is not the only stream in the Township as there are multiple streams which involve multiple efforts/manpower to determine how to manage all of these waterways.

Ms. Luzeckyj stated most of the water comes from the north side which is why it was important to get the two pipes. She stated she does not want the stress to be on replacing the older pipe that was discussed earlier, and it also needs to be the second pipe being approved since that is where most

of the water comes through. She stated just replacing the older pipe will not improve their situation. She stated that pipe was never compromised. She stated two years ago the south side pipe was compromised which led to “this catastrophic chain of events for the neighborhood.” She stated she does not want the concentration of efforts going into replacement of the older pipe instead of the installation of the second new pipe. Mr. Grenier stated he does not disagree, but he believes we can have quicker success replacing the old pipe that should be replaced anyway and will relieve a little of the pressure on the newer, more northern pipe while at the same time still trying to get DCNR and others to agree to the installation of the additional pipe as well.

Mr. Lewis stated there have been some significant rain events over the last few months, and we are averaging about 5” a month. He asked if we found any pooling of water on lawns or roads that did not drain properly with the changes we have made so far or anything that was seen that we should be concerned about. Mr. Coyle stated while he did not see any pooling of water in yards, at the northeast curve at Maplevale where it curves back toward Taylorsville, there was a lot of water collecting there at the base of a resident’s driveway. He stated the drains seemed clear, and he did see a resident clearing the storm drain. Mr. Grenier stated he understands we did get some feedback from the residents at 18 and 20 Maplevale about the yards. He stated he has walked the area, and he has seen some pooling in certain low-lying areas; but the stream has not jumped its banks, and the pipe at the Canal seemed to be holding steady. He added he still thinks that there is a fair amount of concern about big storms because there is not an additional pipe and everything has not yet been implemented. Ms. Blundi stated while she agrees, she believes that Mr. Lewis was looking for feedback on whether we are seeing improvements based on what has been done so far or if this is highlighting other areas that we need to focus on.

Mr. Kessler stated the approach we have had collectively is to work on the emergency repairs and restoring the areas that were substantially damaged and then identify areas where there could be improvements as we move forward. He noted the hope was that the second pipe would be part of the Emergency Permit during the first step; and while there was push back, we do not want to abandon that. He stated they then considered the best path forward to add additional drainage improvements to the neighborhood. Mr. Kessler stated the emergency repairs and the clean-out work Public Works has done has been observed to help move the water through without the obstructions that were making the water find its way around some of the areas. He stated there are additional things to come.

Mr. Lewis stated he would like to know if there is something being seen now during a sustained rainfall, so that we can consider if there is something that needs to be done during the next sixty to ninety days.

Ms. Cloer asked how the residents can report back to the Township. She stated some of the neighbors have videos. She stated during the rain that came right after the flood the street and the lawns as were flooded although that was before any of the work was done. She asked what the Township needs from the neighbors in terms of details. Mr. Lewis stated since there are other ways to track the precipitation, what he would be looking for would be videos/ pictures of what it happening at a certain time during a rain event so it will show where there are issues so that they can look into potential failure points in the future. Ms. Cloer stated if the Township or LandStudies wants pictures/ videos of certain areas, the neighbors can help with that to provide that data. Mr. Grenier stated he feels that should be discussed at the meeting on October 11. Ms. Blundi thanked Ms. Cloer for her willingness to work creatively with the Township in providing information. Ms. Cloer stated that the neighbors want to be an ally with the Township.

Mr. Kessler stated part of the drainage project design does want to look at local spots as well and appreciates the feedback from the residents.

#### OTHER BUSINESS

##### CellCo Partnership d/b/a Verizon Wireless Zoning Hearing Board Application

Ms. Blundi stated she is aware that there are a number of people present wishing to speak on this matter so that after the Engineer's Report is completed, she would like to move this item further ahead on the Agenda.

#### ENGINEER'S REPORT (continued)

##### Approve Pay Application #4 for the Woodside Road Multi-Use Trail Project in the Amount of \$112,231.07

Mr. Kessler stated this item was discussed by the Board at the September 20 meeting. He stated the project has been constructed to a certain point and a punch list has been issued. He stated there have been meetings with the Township's traffic engineer and others to determine some final items to

implement as well. Mr. Kessler stated there was a meeting with PECO and Verizon this week at the Township Building to discuss their schedule for utility pole relocations. He stated they indicated that going into the fall/winter would be when they could move the poles. He stated when the utility poles are relocated, there are portions of the trail that will need to be addressed.

Mr. Kessler stated with regard to Pay Application #4 these are items that have been completed since their last Payment Certificate which was in April. Mr. Kessler stated he included a cover memo for the Board to provide more background on the different Applications that they have requested since the April payment. Mr. Kessler stated the items that remain in the Contract after this payment total \$54,990.17, and final consideration for the project would not be until everything was completed to the satisfaction of the Township and RVE.

Mr. Grenier moved and Mr. Lewis seconded to approve Pay Application #4 for the Woodside Road Multi-Use Trail Project in the amount of \$112,231.07.

Mr. Grenier stated they all have concerns about the status of the project and what it looks like, and there are parts of the pavement that are failing in some areas and the silt sock does not look good. Mr. Grenier stated we want to understand the root cause of these issues, but he feels the Township solicitor would advise that there is an obligation to pay the contractor for work completed. Mr. Grenier stated he also wants to determine if there were failures in term of design, construction, or oversight; and that the Township is not left paying for "someone else's issues."

Mr. McCartney asked if the remaining approximately \$55,000 is enough to cover the work that is unsatisfactory. Mr. Kessler stated the items that remain have been discussed with the contractor, the utilities, and the Township staff; and there is a clear path as to how each one needs to be addressed. He stated with regard to the payment this evening, these are items that have been completed by the contractor and have been confirmed to be done. He added that at this point the contractor has made it clear that they have no inclination to come back and do anything until they are paid for work they have completed to date. Mr. Kessler stated the contractor is interested in completing the outstanding items.

Mr. McCartney stated once the poles are removed, there will be holes in the path, which will require repaving. He asked if that will be a Change Order or is that part of making us whole. Mr. McCartney stated it was

under the advice of the engineering firm to start the project with the poles in place, and now we have to move those poles. He asked if the engineering firm or the contractor is taking on that expense. Mr. Kessler stated he has had discussions about this with the Township Manager and staff regarding the history of the project which he has included in the information provided to the Board. Mr. Kessler stated there is one spot in particular where the pole is directly in the path of the trail and that will need to be fully paved once the pole is moved. He stated there are others that are adjacent that have to be moved further and then the path will be straightened out, and there are costs that go with that; and it will need to be determined how to best get that done. He stated if RVE had an oversight that caused additional work, RVE would discuss how to make that whole. He stated if it was something that was directed at the time with the previous Township Administration and was always felt would be considered later once the poles were moved, that is something that would be coordinated accordingly.

Mr. Lewis stated he hopes by Tabling this at the last meeting it was a “wake-up call for a couple of things.” He stated the Board was unhappy with the way the project was executed in terms of timeline, when defects occurred, etc. He stated in general what the Board wants to know is if projects are on time, on budget, and on scope understanding that there are often projects that are not on time, on budget, and on scope. He stated the concern was with gaps in communication where the Board did not know all of the defects or the severity of the defects, and there needs to be discussion in terms of project management which would be an internal process.

Mr. Lewis stated there have been some unique circumstances in the Township with engineering firms in the past that needed to be dealt with, and the Board will continue to be more discerning and aggressive customers.

Mr. Kessler stated he does not disagree with anything Mr. Lewis has discussed. He stated with regard to the history of why the poles are where they are, at the time it was Bid out and awarded, there was an item considered for having the contractor work with the utility companies to do their usual relocation process; however, at the time the price from the contractor came in about \$100,000, and the Administration at that time decided to remove that from the contractor’s responsibility and shift it into the Township’s realm. He stated it also related to the Grants as they could not wait for the poles to be moved. Mr. Kessler stated they are committed to getting the trail finished.



Mr. Lewis stated when there is a situation where “a utility company is not delivering,” many of those on the Board have no hesitation aggressively advocating for residents and the Township; and would be willing to help if needed.

Mr. Grenier stated there are some other issues which he is concerned about including the “pieces that sloughed off into the basin.” He stated he would like to understand why it was designed and built the way it was. He stated there are also some areas down the hill around the inlets, and it seems there is new design work needed to fix that. Mr. Kessler stated with regard to the area around the basin, that is an item that is on the punch list which was a difference of the contractor’s installation of the trail compared to the Design Plan. He stated the original design had the trail with a bit of a berm between the trail and where it slopes down, and they have worked with the contractor on how to resolve that. He stated if the contractor did what they felt was best but it was not per the Plan, that is typically something the contractor would have to address and fix. He stated with regard to the areas further down near some of the inlets, a lot of the curves in those areas will be straightened out when the poles are moved.

Ms. Blundi stated while she does not feel this is the time to determine the answers to all of these issues, each of the Supervisors have raised key issues. She stated she has abstained on every vote which she will do again today because the path is in her back yard. She stated she believes she was one of the first to bring up the fact that there were issues with the path.

Ms. Laurie Grey, 895 Slate Hill Road, asked when the project started, and Mr. Kessler stated the Grant Applications were submitted in 2019 with the conceptual design. Ms. Grey asked how much the Township has spent on this to date not considering the \$112,000 to be voted on tonight which she “hopes does not pass.” Mr. Kessler stated with regard to the Payment Certificate Application, it is for items constructed in the Contract that was awarded to the contractor. Mr. Grenier stated a large portion of this project was funded through State Grants rather than Township-specific tax dollars, and the Township tries to get Grants whenever we can.

Mr. Lewis stated we also received money from the Delaware River Joint Toll Bridge Commission, and we are working with them to cross Taylorsville Road to link up with the path that they built that allows you to access the bridge, the Canal, and even into New Jersey. Mr. Lewis stated this project has been a priority for over twenty years and has been in the plan to link up the paths

that are in the northwestern part of the Township with the Canal and bike path. He stated it has taken a while for us to get the funding for it, and the vast majority of the funding is State and/or funding provided by the Delaware River Joint Toll Bridge Commission. Ms. Grey stated it is still tax dollars, and Mr. Grenier stated some of it is from tolls as well.

Mr. Kessler stated the Greenways Trails and Recreation Program Grant that the Township received was \$52,000, and we also received a DCED Multi-Modal Grant in the amount of \$353,000. He stated at the time the Township had budgeted \$250,000 so if you take the total Contract value which is \$659,258 and take out the Grants, the balance is \$254,258. Mr. Lewis stated that does not include the Delaware River Joint Toll Bridge Commission.

Ms. Grey stated she appreciates the attention this is getting because it is an eyesore, and she agrees that this is an “example of how not to run a project.”

Mr. Coyle stated while the Board is not saying they are happy with the work that was performed, the Township engineer has indicated that under the mechanism of the Contract, the contractor has delivered as they are supposed to deliver, and is requesting payment owed. Mr. Coyle stated if there is any dispute over the quality of the work, it is a mechanism between the Township and the Township engineer at this point. Mr. Kessler stated the “displeasure is with the project as a whole trying to get to its completion.” He stated the payment being requested by the contractor is for work that has been completed and confirmed to date, and it is not a payment for items that were done poorly or for items that are on the punch list which still need to be addressed in certain locations. Mr. Kessler stated with all these types of projects, when a contractor completes the work, they request that it is inspected and confirmed by the Township engineer and others; and once it is found to be acceptable, it is brought to the Board for consideration of approving the payment.

Motion carried with Ms. Blundi abstained.

#### OTHER BUSINESS

#### Motion to Move Forward Item 14.a CellCo Partnership d/b/a Verizon Wireless Zoning Hearing Board Application

Mr. Lewis moved and Mr. Grenier seconded to take Agenda Item 14.a CellCo Partnership d/b/a Verizon Wireless Zoning Hearing Board Application and

bring it to consideration at this time provided that all Public Commenters realize that we have given a full disclosure of all the stuff that we know at this time and to keep their comments brief.

Mr. Kratzer stated as announced earlier CellCo Partnership doing business as Verizon Wireless has indicated that they are requesting an additional extension of time to re-commence the Zoning Hearing Board Hearing on the Application so it is not anticipated to be heard at the next Zoning Hearing Board meeting. Mr. Kratzer stated the nature of the Continuance is still being discussed among the various attorneys who are working for the various Parties including the Zoning Hearing Board solicitor, the counsel for the landowner, the Synagogue, and also the counsel for the residents who are opposing the Application. Mr. Kratzer stated it is his understand that Chris Schubert, who is the counsel for CellCo, has sent an e-mail to the landowner's counsel and the counsel for the resident group to outline two options – one which would be an indefinite Extension to re-commence the Hearing with the understanding that upon a request to re-commence that the Hearing would re-commence within forty-five days following that request. He stated if counsel for those two Parties object to that, the request will be a sixty-day Extension to a date certain.

Mr. Grenier asked if there has been any further discussion about some other alternatives to what has been proposed. Mr. Kratzer stated the Township as not seen anything in terms of Amending the Exhibit. He stated they were looking at an alternative location on the Synagogue site which would create additional separation from some of the homes that were immediately adjacent; and he believes that is in part why they are requesting the Continuance because of the process that they have to go through from a Federal standpoint. Mr. Kratzer stated he does not know if they are exploring other sites throughout the community. Mr. Grenier stated he asked if it is safe to assume that since the Synagogue has counsel, they would fight to have it moved off of their parcel. Mr. Kratzer that has not been communicated to him, although he recognizes that the Synagogue has an interest in pursuing this.

Mr. Grenier asked if there have been any updates from the Cohen Law Group. Mr. Kratzer stated that work is ongoing to amend the Township's overall Ordinance governing not only this Application, but future Applications as well. Mr. Grenier asked if specific to this project, have they given any final feedback in terms of our potential for success if we wanted to oppose or have "some say in how this gets done." Mr. Kratzer stated Cohen has

communicated that given relevant Case Law and a recent Order, it would be challenging for the Township to oppose the Application from a Federal Law perspective. Mr. Kratzer stated the Township still has the ability to choose to do what it wants to do; but to the extent that litigation would result, “the deck is stacked in favor of Telecom companies.” He added that there was the recent Third Circuit Case that changed the standard in which the Application was being evaluated under. Mr. Truelove stated that Decision was rendered in May or June, and he understands that the standards have been made more favorable for the Applicants; and while there are ways to oppose it, at the Congressional and State level the intent is to facilitate these facilities. He stated this does not mean that the Zoning Laws and Ordinances are not applicable and cannot be invoked, and he believes the Cohen Group is looking to see what can be done with this Application given the current Ordinance and what can be done in the future to strengthen the Ordinance.

Mr. Grenier asked if there is an updated timeline as to when Cohen will have their review done. Ms. Blundi stated the Manager has indicated he will follow up on that.

Mr. Lewis stated he had asked Mr. Truelove if we were not to accept an Extension, could we change the Ordinance and have that new Ordinance apply to a potential future Application; and Mr. Truelove stated that could not be done.

Mr. Grenier stated he is still open to participate now in the Appeal and not wait until Cohen “gives us anything.” Mr. Kratzer stated that may be advisable because we do not have the actual Extension request at this point, and we just have a verbal expression of an Intent to Extend.

Motion to move forward Item 14.a to between 9 and 10 carried unanimously.

Discussion and Motion on CellCo Partnership d/b/a Verizon Wireless Zoning Hearing Board Application

Mr. Grenier moved and Mr. Coyle seconded that the Board of Supervisors participate in the Zoning Hearing Board matter related to CellCo doing business as Verizon at the Beth El Synagogue.

Mr. McCartney asked if opposition would be a better position for the Board of Supervisors. Mr. Truelove stated at this point since we are still waiting to hear from counsel, participation still gets the Township at the table; and depending on counsel's review and findings, that position can be modified. Mr. Grenier stated if anyone wants to amend the Motion based on our discussions this evening, he would be happy to consider that.

Mr. Kratzer stated the Decision from the U.S. Court of Appeals for the Third Circuit was issued on July 14, 2023 in CellCo Partnership doing business as Verizon Wireless versus White Deer Township Zoning Hearing Board in which they changed precedent in how they were looking at these issues. He stated that Case has modified things materially.

Mr. McCartney asked if there have been any subsequent Cases that have been met with any opposition or are in litigation right now. Mr. Truelove stated he has not seen any evidence of that or any reported Cases. He added the Third Circuit is the Circuit for Pennsylvania, New Jersey, and Delaware so it is precedent that controls where we are right now. He stated those Decisions are precedential within the Circuit until or unless they are overturned over by a later Decision, which in this Case it did as it overturned a prior Decision, or reversed/overturned by the Supreme Court of the United States.

Mr. McCartney asked if it is known that White Deer Municipality Appealed the Decision of the Third Circuit Court, and Mr. Truelove stated he does not believe they did. Ms. Blundi asked that Mr. Truelove look into whether an Appeal was taken or not and advise the Board.

Mr. Grenier stated we know that the Synagogue's parcel is just short of thirteen acres and is surrounded on all sides by Residential properties. He stated it is largely a wooded property with a building, driveway, and parking lot. He stated there has been a site proposed but he understands that they are talking about some other locations on the same parcel, although moving something on a thirteen-acre parcel may not provide much benefit depending on topography, etc. He stated the residents have major concerns, and he hopes that the rest of the Board will be willing to participate in this matter. Mr. Grenier stated while at a prior meeting, he had made a Motion to participate in the Zoning Hearing Board matter, the Motion died for lack of a second.

Mr. Tom Hughes, 391 N. Flint Court, stated it is unfortunate that in some instances "our hands may be tied." He stated there are alternate locations within the Township that would be suitable for a cell phone tower, and

there are locations where we already have cell phone towers within the Township. He stated there would be a Variance required for the height of the tower. He stated the Board may not be aware that at this proposed location, they are going to want to put a 2,500 square foot impervious surface on the property. He stated if you look at the cul-de-sac in his neighborhood in front of his and his neighbor's property, when there is rain, there is considerable run-off in the cul-de-sac that does not drain anywhere. He stated he feels that adding more impervious surface on the property adjacent to them will exacerbate that problem.

Mr. Hughes stated he feels allowing them to build a tower in a Residential area sets a dangerous precedent but he understands that has already been addressed by some Court cases. Mr. Truelove stated he does not know if that Court Case is dispositive of the particular issues that would apply here, but we need to understand that the type of Evidence an Applicant might have to present is probably less stringent than it used to be.

Mr. Hughes stated he appreciates Mr. Grenier's willingness to put forward the Motion to participate in this.

Mr. Brian Cohen stated he lives on Hidden Oaks Drive, and he and his wife also own a business in Lower Makefield. He stated he is opposed to the cell tower; and although he is not opposed to advancing technology or better cell service, he is opposed to this particular location. He stated his back yard will face the proposed cell tower property. He stated the new location where they are proposing to move it on the property, moves it closer to Stony Hill Road, and puts it about 450' from his property. He stated the height of the cell tower at 150' will not be hidden by the trees. He stated this will "cast a shadow on his back yard." He stated they had a back-yard project planned that they have put on hold until they see what happens with this, as he did not want to invest any money into his back yard if there is going to be this "monstrosity" going up there.

Mr. Cohen stated Hidden Oaks is Zoned Residential as are the houses along Stony Hill, Bluestone, Flint, Twig and all around that neighborhood as well as the property that the Synagogue sits on which only exists by Special Exception. He stated putting this cell tower in the middle of all of these homes is an "egregious affront to the homeowners." He stated this will substantially effect home values for those who live in the immediate vicinity of it. He stated he would not have bought his home if there was a cell tower towering over the back yard. He stated he feels it is imperative that they look for a new location

that is not as egregious to the homeowners. He stated there are thousands of homes within a half mile of the property. He stated he is looking to the Board of Supervisors to support their opposition.

Dr. Bob Needleman, 387 Hidden Oaks Drive, stated he is strongly opposed to the construction of the tower at this site. He stated he is concerned about reduction of property values, and the statistics show that there is about a 20% to 30% reduction in property values when a cell tower is constructed in a Residential neighborhood. He stated his primary concern is the safety factor, and he feels this will create an extremely dangerous situation for the residents of the area. He stated he understands that Verizon requires a back-up generator to be adjacent to the tower in case of a power failure. He stated the back-up generator will be diesel powered, and it will require a diesel tank to be at the site. He stated that is a flammable fuel, and there have been incidents in the community where vandals have shot guns into tanks of various types and created some serious problems, and he would be very concerned that something could happen to the tank which would cause a serious fire.

Mr. Needleman stated in addition to the fire risk, because of the bad storms we have had and likely will have more of in the future, he is concerned that the tower could lose its support and come down. He stated Stony Hill Road is a major thoroughfare for first-line responders; and in the event that the tower would come down, that could impede the first responders from moving along that road and responding to emergencies. He stated while that may not be a high risk, it is a very high tower, and it would have to be a very secure guide and a deep control hole dug in the ground to support all of this; and he is concerned that there is the risk of a fall which could be devastating if it falls on the road or the Synagogue where there is a school with young children attending.

Mr. Needleman stated he is a retired physician, and there are many studies which have been published on the potential risks of chronic exposure of this type of cellular radiation on the human body including exposure to the skin, risk of worsening of diabetes, heart disease, and malignancy. He stated this is a controversial issue, but he would be concerned about continuing to reside in his home. He stated he would appreciate the Board supporting rejection of the Variance.

Mr. Ray Willhoft, 304 Cinnabar Lane, stated his home is about 300' from the proposed location of the cell tower which will be in his back yard. He stated he agrees with what has been stated. He stated it is right in the middle of Residential streets, and there are people on all sides. He stated at one point this was proposed to be built at the Brookside Swim Club, and he is not sure why it was moved as he feels that would have been a better place for it; and "within a year it pivoted to this parcel and seems to be locked in place, and they do not want to look at anything else." He stated at the last meeting there was a discussion about alternate sites being examined, but he is now hearing that no one knows if that happened, and he asked why. Mr. Willhoft stated this will negatively impact the Residential values of the homes in the neighborhood, and people do not want to move next to a cell tower. He asked if anyone has talked to Verizon about possibly moving this to another site or is it just moving it a "few feet or a few yards over."

Mr. Kratzer stated there was a discussion with the Applicant after it was originally filed. He stated they have been trying to reach out to the Applicant's counsel, but there has been a lack of responsiveness. Mr. Willhoft stated he does not feel it is good enough to have tried to contact them once. Mr. Kratzer stated he understands that they have a variety of process-related requirements when they are looking at alternative locations, and he believes that they are exploring this. Mr. Willhoft stated he would have hoped that there would have been an update on that. Mr. Kratzer stated he understands the jurisdiction rests with the FCC so they are going through a Federal process, an environmental process, and a variety of other processes.

Ms. Blundi stated there has not just been one outreach that went unanswered, and we will continue to try to get information from them. She stated the Township is sharing the information that we have.

Mr. Willhoft asked why the Brookside Application did not go through, and he asked why "is this one deemed better, when it seems to him that it is not." Mr. Majewski stated the Board of Supervisors voted to oppose that Application at the Brookside Swim Club and suggested that they look at alternative locations. He stated they have continued to look for locations throughout the Township to try to fill the coverage gap that they allegedly have. He stated they chose this site because it met some of the criteria that they needed to maximize their coverage and try to put it in an area that they hoped would have the least impact on the surrounding community. Mr. Majewski stated when they did the balloon test, it was seen that it was maybe a little



more impact than it was hoped it would be. He stated as Mr. Kratzer indicated as they look at alternative locations, there is a whole set of criteria that they have to go through as they look around for these sites.

Mr. Willhoft stated pivoting from Brookside to this location took about a year, and they were able to get it approved. Mr. Grenier stated nothing has been approved yet, and at this point they have only submitted an Application. Mr. Willhoft stated this location “got firmed up and nailed down in less than a year.” Mr. Truelove stated there is no Plan to build there right now, and they just have an Application. He stated there is no approval. Mr. Grenier stated they have found a landowner who is willing to host them, and they may have a deal with that landowner; however, that does not mean the Township has agreed to it. Mr. Willhoft stated he agrees, but what he was hearing was additional conversations whether the Board would even participate in this; and he is glad to hear that they are participating, although he feels they need to oppose it.

Mr. Majewski stated this will go through a full Hearing process. He stated at this point the Application was briefly introduced, and it was noted who in the area were opposed to the Application and wanted to have Party Status. He stated at that time they committed to do a balloon test which people reacted to, and they have since been looking around the Township. He stated hopefully they will provide a Continuance to a date for when they will be ready to re-convene the Hearing which will allow the opportunity for them to make their case, the Township to question them about some of the parameters of what they are looking at, and for all of the Parties who are in opposition or support of the Application to make their case in front of the Zoning Hearing Board which will ultimately make the decision. He stated it is a long process.

Mr. Leonard McMullen, 394 Twig Lane, stated he has appeared before the Board a number of time before. He stated the neighbors have had a consistent presence since the beginning when this matter started six months ago. He stated he believes that this is the fourth Continuance; and he asked that if after four attempts to bring this in front of the Board they are not ready to present their position on this, should they withdraw their Application and come back and re-submit it at some time in the future. He stated the neighbors are spending thousands of dollars of their own resources and time because of safety, loss of property values, and everything that has been expressed this evening. He stated they need to know that their leadership in the Township is with them in this matter. He asked that the Board consider

the opposition role as he truly believes that this is not the right location for this and many of those present share his opinion. He stated he feels “they are waiting us out.” He stated the more they Continue the more money that will be spent in defending our case.

Mr. McMullen stated there are actually two locations staked out at this time on the Synagogue site. He stated one is the original location, and the other is one which is fairly close to the Synagogue itself. He stated if you consider the height of the tower at the second location, and if it were to fall in a wind storm, it would probably fall close to Stony Hill Road. He stated he does not believe that location has officially been presented to the Township. Mr. McMullen stated they have heard that they will move it if the opposition stops, but he does not feel that feels very good as a resident who abides by the laws, pays taxes, and bought a piece of land that was Zoned Residential; and now we are being “strong-armed by a big Goliath corporation.” He stated the residents need the Board to be engaged in this and take the side of the residents. He stated he understands the precedence of the Law that was referenced, and he believes they will have to look at that to see if it is being opposed and Appealed. Mr. Truelove stated Mr. Heleniak, who is representing the residents, is aware of the Case.

Ms. Blundi asked Mr. McMullen if he stated that someone was meeting with him and trying to “strong-arm” him. Mr. McMullen stated he is not saying that, but there are conversations going on through Parties indicating that as they look at alternative locations, alternative sitings, that “If we found that agreeable, that they would give that stronger consideration over the original positioning.” Mr. McMullen stated “that does not feel right as a Party involved in this. He stated we cannot have that going on.” Ms. Blundi stated she was not aware of this.

Mr. Tom Meir, Twig Lane, stated he has been before the Board a number of times, and he feels that putting a 150’ cell tower in a Residential area is a very bad idea. He stated he has spent 40 years in an industry that has been intimately involved with the tele-communications industry, and he does not believe anyone opposes the idea of cellular technology, and there is the need to be within range of a cell tower, so these towers are not going away. He stated you can expand the capacity by installing more towers, but you need to control the locations of these towers; and the Township has made a considerable investment through hiring engineers to develop Overlays for locations for these towers, and that should be followed. Mr. Meir stated no one in the opposition group is opposed to

cell towers, but they want to see logic followed not to locate them in Residential neighborhoods. He stated he does not feel we should grant an exception to a Fortune 50 company, and he hopes that the Board will follow through on the Motion made to participate in this action and hopefully oppose it as well. He hopes they will develop a plan that is fair to the “account” and the Township taxpayers.

Ms. Lisa Fox, 417 Stony Hill Road, stated she resides there with her husband and three daughters. She stated they are opposed to the construction of the 150’ tower. Ms. Fox discussed how much they love raising their children in the Township and the support they have received particularly from the Schools. She stated she volunteers at the Schools and engages in a number of local groups. She stated they are an active family, and she discussed the outdoor activities they enjoy on their property which they have transformed into a park-like setting. She stated she hopes that she will not have to raise her children underneath this 150’ cell tower which will be in such close proximity to their home. She stated if this cell tower is permitted to be constructed they will be forced to be outside under “this microwave radiation or stay in night and day.” She stated she feels this matter should be a choice for the people.

Ms. Fox stated they face a significant challenge with their middle daughter who was diagnosed in November, 2021 with an exceedingly rare genetic defect, CFC syndrome. She discussed her daughter’s medical condition. She stated they met with a world-renowned endocrinologist in Belgium who has provided a treatment plan. She stated he has lectured on health hazards on the electromagnetic field to physicians. When they advised him about the potential construction of the 150’ cell tower to be built 200 yards from their home, he provided a letter indicating that this distance is too short and insufficiently safe for anyone and particularly young children with fragile health. He indicated that such near construction will produce excessive electromagnetic fields on her home and inevitably impair her health and compromise the benefits of any treatment to relieve her condition. One of the major problems with this genetic defect is the inability to properly metabolize calcium which leads to stunted growth and cardiac conduction defects, and microwave cell radiation has proven to interfere with the metabolism of calcium, and this absolutely occurs at levels of exposure that are well below the current FCC guidelines. It is well known that a child is ten times more sensitive to radiation. None of these factors are addressed by the current standards.

Ms. Fox stated her neighbors are also against this tower, and they need the Board's help and be a Party in opposition to this tower.

Mr. Jack Muldowney, 392 Twig Lane, stated there is nothing more important than the health of our children including the Fox's daughter. He stated he knows that it has come to the attention of the Board of Supervisors about the recent Third Circuit Case. He stated he has looked into this, and White Deer Township is located within Bald Eagle State Forest; and because a large portion of the Township is in a State forest, there is very little opportunity to put in a cell tower, and there was only one parcel that they found. He stated the parcel was 1.9 acres which contained four improvements – a cabin, a shed, a pavilion, and a privy. He stated that does not sound like any of the properties involved in Lower Makefield. He stated there are very valuable houses around the proposed site in a couple of cul-de-sacs. He stated people live here because it is a very unique place to live. He stated the immediate effect of the tower will be that it changes that. He stated the tower in its original location is at the end of his driveway. He stated there would be a "theoretical drop in his property value, and there would be 10% to 20% of property reduction for the surrounding houses which would be hundreds of thousands of dollars. or \$100,000 to \$200,000 or more for each property around this." He stated that is a "theft, and we get nothing for it." He stated they are asking that the Board participate and hopefully oppose this in the future. He stated he does not feel that there is any harm in participating; and once they see what is going on, they will join with the neighbors and oppose it.

Dr. Tony Mannerino, 405 Stony Hill Road, stated he has discussed this with the Board previously. He provided tonight a hard copy of the Third Circuit Court of Appeals Case which has been discussed earlier; however, he stated "that has nothing to do with us." He stated what does have to do with us is the United States Court of Appeals for the District of Columbia from 2021 when they ruled against the FCC and told them to go back and re-visit their standards which they have not done.

Dr. Mannerino thanked Mr. and Ms. Fox for discussing their daughter's condition adding that some of the neighbors have known about that for some time. He stated this tower will "decimate her and decimate any other child who is within at least 500 meters of the tower and actually more than that." He stated they are not opposed to towers, and he has been looking into this since the 1970's; but it does not belong within reach of a child's bedroom. He discussed the pharmaceutical companies and the negative impact there has been with some of their drugs which were based

on limited research studies. He stated this relates to the cell tower as there was also limited research related to the standards for cell towers/cell phone radiation.

Dr. Mannerino stated “we are taking this to the next level, reporting this, and pushing back on the DC Circuit Court of Appeals, and will hold their feet to the fire, and they will need to go back and evaluate the safety standards, which were based on studies from 1982 on less than a dozen monkeys and a handful of rats that have nothing to do with the knowledge and information that we have now.” Dr. Mannerino stated this is listed by the World Health Organization as a carcinogen, we have a child who is prone to cancer, and now we are “going to irradiate her; and that is an American with Disabilities Act Claim.” He stated we will be contacting the Department of Justice. He stated “we are Lower Makefield and not some bogus little town in the middle of nowhere.” He noted the number of educated people in the area, “and they are not going away.” He asked the Board to join them in opposition. Dr. Mannerino stated this should not be in anyone’s back yard, and he is willing to help anybody whose “back yard is being threatened by this monstrosity.” He stated what matters to him is not that it is “ugly, it is the poison that comes off this thing at this distance.” He stated while we need them, they have to be placed in a safe location.

Dr. Mannerino stated Verizon approached Bristol Borough a few months ago to put a cell tower on their ball park, and Bristol Borough said no; and Verizon left. Dr. Mannerino stated if Verizon takes the Township to court, he will “enjoy that.” He stated they cannot sue the Town, and they cannot come after the Town for legal fees. He stated the Township should not be afraid and should protect the residents. He asked that the Board come on board in opposition.

Mr. Coyle noted Dr. Mannerino referenced the DC Circuit Court of Appeals Case. He stated CellCo versus White Deer is in the Record of the Minutes since it was referenced specifically; and he asked Dr. Mannarino to reference the specific name of the DC Case for the Record. Dr. Mannerino stated it is United States Court of Appeals for the District of Columbia decided August 13, 2021 #20-1025 Environmental Health Trust Versus the Federal Communications Commission. He stated the Federal Communication Commission lost.

Dr. Mannerino provided standards for the United States and Japan which are the most lenient standards in the World compared with standards he showed for a number of other Countries. He stated the group he is involved with is going to continue to work on this.

Ms. Lora Kaczor, 380 Flint Court, stated she is a hairdresser and re-scheduled clients four times to come to meetings about this. She stated the cell tower will be right behind her home, and she is very anxious about it. She stated her husband survived cancer as a child, and she has two boys. She stated the Board has to help the neighbors, and she does not want this in anyone's back yard. She stated the other area they have marked off is still behind her house. Ms. Kaczor stated she does not know why it was turned down at Brookside. She stated she assumes the Synagogue is going to get money for this. She stated there is water run-off coming down her front yard. She stated she has a sink hole, and when the Township came out, she was told that it was not bad enough to fix yet. She stated it has been fixed twice, and it is sinking again because the water puddles in front of her driveway; and even during a little rain, she cannot get to her mailbox. She stated the cell tower is a major issue, and she does not feel any of the Board would want this in their back yard.

Ms. Kaczor asked if the Synagogue has come before the Board to speak about this. She stated the Synagogue has had parties with loud music; but they enjoyed having the Synagogue behind them because there were not houses behind them. Ms. Kaczor stated her son plays the drums, and she has had the Police called about that by previous neighbors. She stated she does not think the Synagogue is thinking about the neighbors, "and they do not care that this is in her back yard." She stated she wanted to live in her home for forever, and she asked that the Board help them. She stated it should be put on Township property so that we can get the tax benefits.

Mr. McCartney stated he understands that Mr. Truelove was present when the Board opposed the Application at Brookside. He asked if there is an advantage to opposing the Application during this time in the process versus later in the process. Mr. Truelove stated once the Township is a participant, that is the most important. He stated at that point Ms. Kirk will be asking questions as will the other counsel. Mr. McCartney asked if the will of the Board is to oppose the Application at a future date, does it hurt from a leverage standpoint to do that now. Mr. Truelove stated he does not feel practically it makes a difference although some people may feel that it sends a different message; and that would be up to the Board. Mr. Truelove stated we have not consulted entirely with the Cohen Law Group yet. Mr. McCartney stated new information has been presented as far as the standing case that happened at Bald Eagle State Park. He stated the Board was under the impression that there was precedent set.

Ms. Blundi stated the Court issues rules or tests, and it is the rules or tests that have been guiding us.

Mr. Coyle stated his objective in participating was to have a conversation with Verizon. He stated their marketing is about small cell 5G which advertises small units placed on lampposts, etc., and not 150' towers behind a dense, Residential area. He asked if a Motion to participate is going to get Verizon to have a conversation or would we get a more-effective conversation by opposing and telling them to "come at this a different way." Mr. Truelove stated he believes that there are already conversations that are occurring. He stated by participating it means that there will be someone at the table, but opposing it would send the strongest message that you could send.

Mr. Coyle moved to Amend the Motion to oppose, and Mr. Grenier agreed to the Amendment.

Mr. Lewis stated when we were looking at the Frank Farry Law at the State level and "other elements," the advice we were given was that opposing it could provide unnecessary litigation risk whereas participation would not. Mr. Lewis stated he is okay with opposing if we are comfortable that we do not have excessive litigation risk. He stated all of the concerns that have been expressed are items that are driven at the Federal level where the Township gets dictated to about how things work. He stated it is either State law or the FCC. He stated while someone may say "it is horrible that the FCC allows this level of radiation, we cannot change that." He stated "it is horrible that a Judge basically rolled over for a very large company, but we cannot solve that." Mr. Lewis stated the Board is dealt with a very difficult Judiciary that does not always see things with a common sense lens, and "some of those folks who are Judges were appointed by people that some of the residents may have elected." Mr. Lewis stated it is frustrating because the Board would like to have more control over how this works. He stated if he is being told that there is acceptable risk, he believes the Board would vote unanimously to oppose; but we have had variations of what we could and could not do.

Mr. Truelove stated he understands this, but he has not had conversations with the Cohen Law Group because technically he has a conflict. He stated generally speaking being in opposition is going to send the strongest message possible, but he cannot say whether or not that will embroil the Township in more litigation than it would if they just participated. He stated if this goes to the Zoning Hearing Board, and they issue a Decision adverse to the interest of the residents, it will be Appealed, and there will be a lot of

Parties participating in that. Mr. Lewis stated we could oppose at that time, and Mr. Truelove agreed. Mr. Truelove stated the question is how much do we want to participate to help make the Record, because the Record is done at the Zoning Hearing Board; and it is very rare that the Courts will have the Record amended or changed after it goes up. He stated it is important to make sure that the Record has all the issues fleshed out, and Ms. Kirk would be doing that at the Zoning Hearing Board on behalf of the Township.

Mr. Lewis asked if the litigation risk would be de minimus if the Board were to oppose at this time; and Mr. Truelove stated while he would not say that it is de minimus, it is the same whether the Board votes to participate or to oppose. He added that if it does go to the Zoning Hearing Board, having your strongest case is the best way for the Township to go.

Mr. Lewis stated if there is litigation, Township money will have to be spent; and there will be other residents who will say we are wasting taxpayer money. He stated he wants the residents who are asking that the Township oppose to be there for the Board when other residents indicate their disapproval of spending this money.

Mr. Truelove stated the Township has already brought in the Cohen Law Group which is very experienced in this area across the Commonwealth.

Motion carried unanimously.

Mr. Mike Rossi, 390 Twig Lane, thanked the Board for the Motion to oppose. He stated he has spoken before the Board before. He stated this is an R-3 High-Density Residential Zone, and he would like the Board to continue to oppose this and fight as hard as they can for the residents. He stated we have Cell Overlay Zones on Commercial properties where this can go and are aligned to what our Zoning Plan overall community plans are. He asked that the Township ask Verizon which current cell towers they are using that already exist in and around the Township and where they have not placed one where they could place one and what that might look like from an overall coverage aspect for the community. He stated Verizon's marketing indicates that they have 100% coverage in Lower Makefield, and this would just be expanded capacity.

Mr. Rossi stated we are not asking anyone to change or challenge Federal law, but to take the information we do know and apply common sense to that in opposing the Zoning change on this property that would allow this tower as



well as other towers to go up on this property. He stated the Zoning change would be a change to the property, and it would not preclude them from putting up a second or third tower. He stated this has been seen in other areas where there are multiple towers on the same property. He stated they are requesting one tower; but once the Zoning change comes in and allows for it, there is nothing stopping them from going forward and putting in additional towers or elevating above the 150' which they are allowed to do once the tower is up.

Mr. Rossi stated the current water run-off from 375 Stony Hill Road onto our property is "horrendous," and he has already asked the Township to come out and look at the overall water run-off situation. He stated currently the drainage basins are non-functional, non-maintained, and neglected. He stated they need to resolve the issue already at the building and the large parking lot that only exist in the Residential Zone through a Special Exception. He stated the water run-off is not being handled by the current drainage system, and an additional 2,500 square feet of impervious ground will make the situation worse. He asked the Board of Supervisors to send someone out to assess the property regardless of the cell tower situation.

Mr. Rossi stated his other issue is "the appearance of what this looks like with the recused Solicitor Flager from the Zoning Board being a member of the Congregation and another member of the Zoning Board that is a member of the Congregation." He stated he would like the Board of Supervisors to ask if Solicitor Flager was giving legal advice to the Synagogue while he was the solicitor representing our Zoning Board on Zoning matters to get this onto that property. He stated he feels it is fair for the residents to know if he was acting as an attorney for the Synagogue at the same time he was representing the interest of the people as the solicitor of the Zoning Board.

Mr. Rossi stated a house just sold last month on Twig Lane for \$1.15 million. He stated that house is 300 to 500 yards away from the Synagogue property. He stated understanding all the properties between that and the Synagogue that will have an impact of 10% to 20% on \$1.1 million properties is "a blow to the community." He stated there is no house that will not go after a re-assessment to get that reduced according to "what is coming." He stated as was noted "for the theft that would occur to the property values, somebody needs to pay for that as we go forward."

Ms. Cheryl Duffy, Flint Court, stated she is directly affected by this tower. She stated she appreciates everyone's consideration in being proactive on this. She stated she heard that the Township opposed putting a cell tower at Brookside, and she asked why that was done. Mr. Truelove stated while it has been some time, he recalls that it had to do with its proximity to Residential neighborhoods. Mr. Grenier stated the Swim Club is also surrounded by forested wetlands, a stream runs close to it, and there are some other natural resources which are in close proximity to what was the proposed location. Ms. Duffy stated she feels their homes are as important as those lands.

Mr. Truelove stated the Board of Supervisors did vote to oppose this. Ms. Duffy stated while she knows that was done tonight, she asked why it took so long for that to happen.

Ms. Duffy asked if they have looked into other locations in the Township that could be recommended to Verizon as alternative sites. She stated "a lot of rumors go around about the water tower by ShopRite, and public lands by other towers." Mr. Grenier stated the Township has a Zoning Overlay that was done years ago specific to where the Township would prefer to put cell phone towers, and that is publicly available; and he assumes Verizon is well aware of this. He stated whether they choose to do that is up to Verizon. Mr. Grenier stated we would like to communicate with them more, but there has been a lack of conversation although not for lack of trying. Mr. Grenier stated it is known that "they do not always follow that, and they try different approaches to see what they can get through the system."

Ms. Duffy stated she appreciates the decision to take a position of opposition on this tonight. She stated she is a forty-four year resident on Flint Court, and she would like to see the community maintained as a purely-Residential area without anything like cell towers or anything that jeopardizes the value of our properties and the quality of our lives; and she would appreciate any efforts in that direction.

#### MANAGER'S REPORT

##### 2024 Budget Workshops – October 25, 2023 and November 8, 2023

Mr. Kratzer stated Budget Workshops were previously discussed, and he wanted to make sure these dates were acceptable to the Board before

it went out for advertisement. He stated they also need to agree to a start time. Mr. Grenier stated he hopes to be back from a business trip in time for the October 25 meeting, and he asked that it be held at the normal meeting time rather than an earlier time. There was discussion about the potential for a different date; however, it was agreed to hold that meeting on October 25 to begin at 7:30 p.m. It was agreed that the meeting to be held on November 8, 2023 will begin at 6:30 p.m.

Mr. McCartney moved, Ms. Blundi seconded and it was unanimously carried to hold a Budget meeting on October 25, 2023 beginning at 7:30 p.m. and on November 8, 2023 beginning at 6:30 p.m.

Discussion and Motion Regarding Solicitation of Bidders to Purchase 0.68 Acres From Parcel #20-038-122-001

Mr. Kratzer stated a request was received from an adjoining property owner about the potential of purchasing a portion of a parcel that the Township owns on which a sanitary sewer pumping station is located. The request is to purchase approximately .68 acres from Tax Parcel #20-038-122-001. Mr. Kratzer stated we do not have the ability to unilaterally negotiate with a property owner. He stated given that the value of the property is in excess of \$6,000, it would require us to go through a Bidding process to solicit Bids in the event that the Township is interested in subdividing a portion of the lot that the Township owns. He stated it is where the Stack-house Pumping Station is located. He stated the Lot does have an existing Conservation Easement on it, and there is no development potential contemplated. He stated he understands that to the extent that the property owner is the successful Bidder, at that point, there would be a Lot Line change processed. Mr. Kratzer stated this would have no impact on the functioning of the pumping station, and that would remain with its separate drive onto the Lot that Aqua needs access to for purposes of operating the sanitary system.

Mr. Kratzer stated he was not able to pull the Conservation Easement, and they need to confirm that the Conservation Easement was actually Recorded. He stated at this point it is reflected on a Plan. He stated if the Board is inclined to proceed with this request, he would recommend that the Conservation Easement, if it is Recorded, be looked at to make sure that it is sufficient; and to the extent that it is not, we could apply a Conservation Easement prior to the transfer of the property.

Mr. McCartney asked what is the motivation of the individual making this request; and Mr. Kratzer stated he owns the adjacent Resident lot, and it would add to his lot. Mr. Kratzer stated it is wooded, and he believes that there is tree growth that probably needs to be maintained; and he is interested in cleaning it up. Mr. Kratzer stated he also talked about trying to create some access to the Canal as well. Mr. McCartney asked how we are establishing valuation; and Mr. Kratzer stated we had an appraisal done, and the value of the property was approximately \$6,500, but there would be process-related costs as well, and we could establish a reserve on that and incorporate that into the document.

Mr. Grenier stated he has no interest in selling Township-owned open space to a private landowner who wants to create access to the Canal since we would lose all ability to control that. Mr. McCartney asked if there is access to the Canal there, and Mr. Grenier stated the interested property owner is adjacent to the Canal. Mr. Grenier stated it is a wooded lot, and he wants to keep it a wooded lot as it has function ecologically.

Ms. Blundi asked if there is an option to talk about giving him a small narrow right-of-way for some transactional cost although she does understand what Mr. Grenier has discussed. Mr. Truelove stated they could approach the individual with that to see if there is a compromise.

Mr. Lewis moved, Mr. Grenier seconded and it was unanimously carried to direct the Township Manager to indicate the Board's preference of not continuing discussions about selling the property.

Authorize Acceptance of the Proposal from RVE for Environmental Services (Additional Soil Sampling) for the Patterson Farm

Mr. Kratzer stated the proposal was provided to the Board in their packet. Mr. Kessler stated test results that were done earlier this year identified that the site testing was completed except for one location approximate to the former Residential dwelling on the Farmstead. He stated this would complete the full extent of the testing. He stated the proposed Fee for that is \$2,750.00.

Mr. Grenier asked Mr. Kessler if he sees any potential for additional samples being required after this; and if they sampled here, and they came back "hot," would they have to expand the sample area. Mr. Kessler stated they do not

expect there to be anything after this last one. Mr. Kratzer stated these are largely vertical, and they are trying to determine depth of the contaminated soil; and Mr. Kessler agreed that they need to cover this final location.

Mr. Kratzer stated part of the prior discussion regarding Patterson Farm had to do with environmental remediation; and in order to define the area and scope of the needed remediation, they wanted to do this testing to have better definition of the scope. He stated if they were to transfer the risk to a contractor to do it, they may not price it as competitively as there would be more uncertainty. He stated this creates additional certainty for purposes of a potential respondent to do the environmental remediation.

Mr. Coyle asked why this location was not sampled previously. Mr. Kessler stated the original parameter was the scope of testing for lead-impacted soil. He stated with those tests completed, it was determined that this additional location should be included as one more spot to look at it.

Mr. Grenier moved, Mr. Lewis seconded and it was unanimously carried to authorize acceptance of the proposal from RVE for environmental services.

Approve Resolution #23-24 – Authorizing the Township Manager to Execute the PennDOT Winter Service Maintenance Agreement

Mr. Kratzer stated this is for the Revised Winter Service Maintenance Agreement with PennDOT. Mr. Fuller stated we were in a Five-Year Agreement term with PennDOT for winter maintenance; and PennDOT re-visited their Fee Structure and determined to give the Municipalities more money so we had to cancel our Contract and start a new Service Agreement with them to get the higher fee. He stated we also took on Oxford Valley Road in front of Edgewood Road which we always maintained but were not compensated for, so we will now be compensated for that for the next five years.

Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried to approve Resolution #23-23 authorizing the Township Manager to Execute the PennDOT Winter Service Maintenance Agreement.

SOLICITOR'S REPORT

Mr. Truelove stated the Board met in Executive Session starting at 6:30 p.m. and items related to litigation, informational items, and collective bargaining were discussed.

Approve Resolution #23-25 – Condemnation of a Portion of the Property at 812 Big Oak Road for the Purpose of Installing and Maintaining Improved Traffic Signals

Mr. Truelove stated this and the following Resolution relate to the intersection at Big Oak and Makefield Roads where signals are to be installed. He stated this Resolution is condemnation of a portion of the property at 812 Big Oak Road which is the location of the service station, and the other Resolution is accepting a Deed of Easement for property at the St. John the Evangelist Church. He stated the difference is that St. John is accepting our appraisal and the service station is not so that involves proceeding to condemnation.

Mr. Grenier moved and Mr. McCartney seconded to approve Resolution #23-25 condemnation of a portion of the property at 812 Big Oak Road for the purpose of installing and maintaining improved traffic signals.

Mr. Grenier noted the third "whereas," which he feels should be amended to PennDOT instead of PADOT." Mr. Truelove agreed to do that.

Mr. Grenier asked for further clarification on the reason for the condemnation, and Mr. Truelove stated this property has not agreed to the amount offered for the Easement which is basically the same amount that the Church across the street is agreeing to.

Mr. Kratzer stated there is an existing signal. Mr. Truelove stated we just needed a little more room for the upgraded signals.

Motion carried unanimously.

Approve Resolution #23-26 – Accepting Deed of Easement for Traffic Signal and Other Related Improvements at the Intersection of Big Oak & Makefield Roads

Mr. McCarney moved, Mr. Grenier seconded and it was unanimously carried to approve Resolution #23-26 accepting Deed of Easement for traffic signal and other related improvements at the intersection of Big Oak and Makefield Roads.

COMMUNITY DEVELOPMENT

Approval of a Final Major Subdivision for 1566 LLC (Plan #685)

Mr. John VanLuvanee, attorney, was present with his client, Mr. Katzoff. Mr. VanLuvanee stated the proposal is a six-lot Subdivision involving four Tax Map Parcels: #20-18-1, #20-18-1-2, #20-18-2, and #20-16-27. He stated it is a compilation of a portion of the Katzoff property, property formerly owned by the Loftus family, and a small lot on Creamery Road that was purchased to provide access to Creamery Road.

Mr. VanLuvanee stated Preliminary Approval was granted by the Board last July, and the Plan in front of the Board is the same Plan. At a meeting before the Board in August, they went through Mr. Truelove's draft approval letter and the review letter of Remington Vernick dated January 31, 2023 which is referenced in Mr. Truelove's draft letter. Mr. VanLuvanee stated at the beginning of that meeting he had indicated that they had reviewed Mr. Truelove's draft letter, and they had no issues. He stated there was then a meeting in the field where they discussed some of the issues regarding replacement trees and locations for additional plantings and buffering; and all of that is summarized in Mr. Truelove's draft letter including the installation of additional trees along the northern perimeter shared with 1531 Buck Creek Drive and along the western property line shared with 1078 Creamery Road. He stated the owners of both of those properties were present at the last meeting, and he believes they are also present this evening.

Mr. VanLuvanee stated at the end of the meeting before the Board voted, Mr. Grenier raised a question concerning a dam on the property. He stated Mr. Grenier had indicated that he had been unable to see any public references to that dam, and the matter was Tabled. Mr. VanLuvanee stated he granted an Extension to the board so that the Township would have the

opportunity to gather some information. He stated his office also gathered some information, and he sent a letter to Mr. Majewski dated August 16, 2023 forwarding materials he had received from DEP indicating that this dam was on their radar; and it had been Permitted originally in 1932, and subsequently there was a Permit issued to Mr. and Ms. Katzoff in 1988 to modify the dam. He stated there the two latest inspection reports are dated January 8, 2009 and January 26, 2015 from DEP.

Mr. VanLuvanee stated Mr. Katzoff also retained the firm of RK Hess, and qualifications for that firm were sent to the Board of Supervisors; and they issued a report dated September 6, 2023. Mr. VanLuvanee stated they indicated that they saw some work that needed to be done. Mr. Katzoff completed that work, and there is a supplemental letter dated September 26, 2023 indicating that the two repair issues that had been identified had been repaired by Mr. Katzoff and inspected by the inspector who authored the report.

Mr. VanLuvanee stated he hopes that all of this information has satisfied Mr. Grenier's concerns about the dam. He stated it is monitored by the State, and it is currently maintained by the Katzoffs as it has been for the last forty years since they bought the property which was what he had represented at the last meeting although he understands why Mr. Grenier was looking for more than his representation to that effect.

Mr. VanLuvanee stated they are requesting Final approval tonight. He stated Mr. Truelove added an additional provision in the draft approval letter requiring compliance with the dam report, and they will comply.

Mr. Truelove stated also in the Lower Makefield Township Planning Commission approval memo they mentioned the animal pen and the replacement of trees. Mr. Truelove stated there was to be a meeting with the Applicant, the Township Manager, the Community Development Director, Mr. Majewski, and a member of the EAC to come up with an alternative plan to present to the Board that would be satisfactory to all parties with regard to the animal pen and tree replacement. He stated the tree replacement issue has been dealt with, but the animal pen is still an issue that could require a meeting. Mr. VanLuvanee stated at the Planning Commission meeting, there was discussion concerning the use of buffer averaging and it had been applied in certain other areas prior to that discussion.



He stated the suggestion at the Planning Commission was that we may be able to solve that with buffer averaging. He stated the engineers at Pickering, Corts, and Summerson have suggested that is a possibility. He stated if we cannot solve it in that way, Mr. and Mrs. Katzoff will move the pen. He stated it is a very small encroachment, and it is a fence, not anything permanent. Mr. Katzoff stated it is just a fence surrounding the pen, and it is not a building.

Mr. Truelove stated the Board has already seen the approval letter.

Mr. Coyle moved and Mr. McCartney seconded to approve the Final Major Subdivision Plan for 1566 LLC subject to the Conditions set forth in the updated approval letter as indicated.

Mr. Grenier thanked them for providing the information which was very helpful. He stated he saw that there were recommendations made for improvements to portions of the dam which have already been undertaken which he appreciates. Mr. Grenier stated with regard to the animal pen, one of the biggest issues in Lower Makefield relative to water quality long term has been the historic impacts of agricultural activities even more so than land development. He stated if we have an impairment in Lower Makefield it is usually related to fecal chloroform, nitrogen, phosphorous, etc. because of large crop farms and animals farms. He stated his strong preference would be to relocate the pen outside of the buffers to make sure that we do not have animals in a pen near open water and natural resources so that we can maintain our water quality. Mr. Grenier stated in order to have livestock, there are minimum acreage requirements, and they do exceed that amount.

Mr. Grenier noted the proposed development across the street from Mr. Katzoff where they are looking at possibly re-aligning Creamery to Mirror Lake and “a few other things;” and he asked if that impacts what Mr. Katzoff is looking to do. Mr. Katzoff stated there is one small house that will come down, and the driveway for that house will become the driveway for a deeper house in the development.

Mr. Grenier stated stormwater management is a concern in the Township, and he asked the Township engineer to summarize the steps taken to meet our stormwater requirements and any potential off-site risk for stormwater impact. Mr. Kessler stated the Applicant has proposed that each individual lot will have its own stormwater management rather than collectively going to a larger basin structure, which he feels is a good approach. Mr. Grenier stated when there is a single basin for a development, the Township will typically take ownership of it.

He asked if the individual landowners will be the owners of the on-lot stormwater management systems and will there be Deed Restrictions to make sure that they maintain their individual stormwater systems. Mr. VanLuvanee stated the main stormwater facility will be on the Katzoff property, and he assumes the Township will require the normal Stormwater Operations & Maintenance Agreement which will be Recorded and effect all of the lots. He stated every property owner will have an obligation to maintain any facilities on their lots.

Mr. Grenier stated when developers come up with plans for homeowners and HOAs, some are more knowledgeable, etc. about how to manage these features. Mr. VanLuvanee stated he is aware that there have been issues in some areas. Mr. Grenier stated he wanted to make sure that the Township engineer was comfortable with how this is set up and we are not putting anyone at risk. Mr. Kessler stated we now have Operations and Maintenance Agreements which were not in place in the past, and these have been put in place for the purpose that if they are not being maintained or functioning as they should, the Township has that Agreement to resolve issues.

Ms. Kathy Tipton, 1038 Creamery Road, stated she “knows that this is a battle that she cannot win.” She stated there are only three homes on her street, and she “cannot fight the battle of the development behind her.” She stated she wants it in the Record that she is afraid about water in her back yard and the material that is now encroaching on her fence in her back yard that is not being taken care of. She stated she is worried about the corner of her property that is already falling down because of the water. She stated she is opposed to this, but there is nothing that she can do. Mr. Truelove stated there will be agencies that will have oversight as the development is going in including the Bucks County Conservation District and others who will be on site from time to time. He stated if she feels that there are problems being created by the development, she will have the right to interact with those agencies.

Ms. Tipton stated she will be seeing trucks and dirt and hammering, and the peaceful environment that she has had will be gone until it is all done. She stated she bought this property because she did not have to look at houses behind her.

Mr. Fred Seabright, 1530 Buck Creek Drive, stated it was indicated that there would be a tree buffer from 1531 Buck Creek Drive, and he asked if he meant 1530 Buck Creek Drive. Mr. VanLuvanee stated that was already on the Plan, and this was for additional buffering at 1531 which

was identified during the site walk as a potential area for putting in additional replacement trees. He stated the buffer along Mr. Seabright's house is already on the Plan. Mr. Seabright stated he is not happy about the development, but he appreciates how the Township has handled it through the process. He stated from the beginning he had concerns about the trees, the water, and the protection of aesthetics. He stated he had been promised certain things were going to occur, and he wants to make sure that the berm along his property will have a tree line that will protect him and that there will be curbing from the middle of the street that will continue where it is not presently, and it will continue down Buck Creek Drive into the new development. It was indicated that this is correct.

Mr. Seabright stated the other item is that he will experience no water damage although he is not sure who he would go to if he does have an issue since he just heard that each property owner will be responsible for the water on their property. He stated the Township approved a swimming pool for one of his neighbors; and once it went in, his next-door neighbor had water problems. Mr. Seabright stated that was just one impervious piece of ground that was changed, and he has been promised by the Township that this design will insulate him from water damage; and if not he asked who should he go to. Mr. VanLuvanee stated the stormwater design has been designed to take the water away from Mr. Seabright's property and it does not slope toward him. He stated with regard to individual owner maintenance the Agreement that was discussed is an Agreement between the homeowner and the Township which is Recorded so that if there is an issue, the Township would have the ability to compel the property owner who is at fault for not maintaining their facility to force them to maintain it. He stated the Township has the ability to protect Mr. Seabright's interest. Mr. Truelove agreed, and stated Mr. Seabright would contact the Township and the matter would be investigated.

Moton carried unanimously.

#### Approval of Extension of Time for the Torbert Farm Subdivision

Mr. McCartney moved and Mr. Grenier seconded to approve an Extension of time for the Torbert Farm Subdivision.

Ms. Kathy Tipton, 1078 Creamery Road, stated she was at the meeting on Monday with the Traffic Commission. Mr. Grenier stated after the last Board of Supervisors meeting, they had been shown "a hard copy of what

Ms. Tipton has.” He stated while he was unable to attend the CTC meeting yesterday, he asked that the staff get a digital copy to the CTC so they could look at what was being proposed.

Ms. Tipton stated she has already discussed with the Board her concerns about what is going on behind her, and now she is “seeing this in front of her.” She stated “if this happens, it is okay, and she will be on a cul-de-sac with a dead end, which is fine.” She asked if Creamery Road is going to go through the farm what would her street be called because she would now be on a cul-de-sac and she would not be on Creamery Road. She stated she is also concerned with part of the cul-de-sac where it curves right at the end of her driveway. She stated she is concerned about when snow plows come, and the plow has to curve back up to Creamery Road, and the end of her driveway will be quite extensive with snow.

Ms. Blundi stated at this point, they are just considering an Extension, and the Board will know more once they see what Ms. Tipton is referring to. Mr. Grenier stated it is only a Concept Plan at this point. Mr. Majewski stated those are items to be addressed.

Ms. Tipton stated she was also not sure if anything was going to happen in front of her house adding that is where her septic tank is. Mr. Majewski stated it should have no impact on that.

Ms. Karen Fell, 1550 Doe Trail Lane, asked what is the reason for the Extension. Mr. Truelove stated the developer is granting the Township the Extension; and it is to the Township’s benefit that they are doing that since it gives both sides more time to refine the Plans and hopefully become more workable. Ms. Fell asked at what forum are the issues discussed such as connecting Mirror Lake directly to Creamery. Mr. Truelove stated that will come before the Board at a public meeting. He stated they will also go before the Planning Commission and other Advisory Boards so that there will be plenty of opportunity to review and make comments.

Mr. Kratzer stated with regard to the street connection, that is reflected on the Township’s Official Map, and that also went through a public adoption process. He stated that was the proposed re-alignment of Creamery that was contemplated when the map was adopted around 1992.

Motion carried unanimously.

Mr. Kratzer stated that while it was not part of the Motion, the time has been extended to December 31, 2023.

Federal Emergency Management Agency (FEMA) Flood Mitigation Assistance (FMA) Grant Program

Mr. Majewski stated as discussed at a prior meeting FEMA has a Flood Mitigation Assistance Grant that is available to residents who would either like to have their property acquired or elevated to be above the floodplain. He stated PEMA, which is the Pennsylvania Emergency Management Agency, requires that Municipalities who intend to submit Applications on behalf of residents to mitigate the potential flooding of their home through either acquisition or elevation that they apply first by providing a letter of interest to PEMA by October 18. He stated this letter of interest is non-binding, and it is just a placeholder. He stated PEMA will send the Township Application packages for the property owners if they so choose. Mr. Majewski stated he is available to meet with and discuss these types of projects with any homeowner who may be interested and go over all of the ramifications of what is and is not included. He stated it is a long process and can sometimes take up to a year or two to get the Grant approved and then passing on the paperwork. He stated those interested should contact him at [jimm@lmt.org](mailto:jimm@lmt.org) or call him at 267-274-1123.

SUPERVISORS REPORTS

Mr. Lewis stated the Disability Advisory Board is looking for two members, and he asked that those interested contact the Township. Mr. Lewis stated Farmland Preservation is in the process of fixing some of the signs that are on properties. Mr. Lewis again reminded everyone to attend the Historical Commission event on October 14 at the Slate Hill Cemetery beginning at 4:00. Chief Coluzzi stated they will be providing someone there to help with traffic.

Mr. McCartney stated Continuing the Cell Tower Appeal before the Zoning Hearing Board was discussed earlier. He stated last evening the Zoning Hearing Board also agreed to Continue the Turchi Appeal at 0 Big Oak Road which the Board of Supervisors had voted to oppose.

Mr. Grenier stated the CTC met and discussed the Torbert development. Mr. Grenier stated the EAC will be reviewing potential recommendations to the new Tree Plan at their next meeting next week.

Mr. Coyle stated the Planning Commission considered expansion of the existing Medical Use at 777 Township Line Road and voted unanimously to support that expansion.

#### PUBLIC COMMENT

Ms. Shridhuli Solanki, 1506 Yardley Road, stated there was an electrical fire at her home on August 18, 2023. She stated prior to leaving the home, the Fire Chief recommended calling an electrician who came that same day and performed a diagnostic review of her home and it was determined that the electrical service at her home was drastically higher than normal at some outlets and drastically lower voltage at other. She stated the numbers were so far from normal that he checked her neighbor's home to confirm that his equipment was recording accurately; and after determining the equipment was fine, he determined that the fluctuations in her home were due to faulty wiring. She stated the next day when PECO arrived they confirmed that the service to her home was faulty, and that service wires to her home were installed in the "old way, in a way that allowed wires that should not touch to touch."

She stated she understands that the Township has made great efforts to improve the reliability of our electricity, and she is thankful for that; but she is requesting that the Township work with PECO to insure that our service lines are inspected, replaced as required, and kept up to date so that no other resident has to endure what her family is experiencing. She stated the service voltage to her home exceeded the minimum and maximum Code-allowed fluctuations by more than 50%. She stated she understands that there will be damage to appliances, electrical equipment, and wiring. She stated if the fire was not controlled, it could have caused death. She stated PECO should not be allowed to continue their negligence in our Township or "tell her or any resident as they did to turn on her circuit breakers one at a time and listen for crackling in the walls and smell for smoke at the outlets." She stated they repeated this twice, and they should not be allowed to cause damage to any Township residence or property and "walk away without accountability." She stated our electric service must be reliable and more importantly safe. She stated 50 days after the electrical fire her family is still not able to safely return to the home which is why she is requesting the assistance of the Township Board of Supervisors.

Ms. Solanki stated she has reached out to Representative Perry Warren's office, Senator Steve Santersiero's office, and Governor Josh Shapiro, and she has talked to the "Department of Insurance" She stated she has not

heard from PECO or her insurer for some time. Mr. Kratzer stated PECO is regulated utility through the Public Utility Commission, and he asked if she has contacted the Public Utility Commission. Ms. Solanki stated she is trying to maintain a full-time job while composing e-mails in between. She stated to date she has about 50 correspondences, and that is not including recording calls. She stated “they” are willing to pay her deductible, but the damages are way beyond her deductible.

Mr. Truelove stated he assumes her insurance company, Allstate, will pay for the damage as there is no reason that they should not. Ms. Solanki stated her first conversation with the original adjuster indicated that they would involve a company called “EXL which was their subrogation.” Mr. Truelove stated they then go after the entity/entities that they feel are responsible so that would be PECO or someone else. Ms. Solanki stated “they are not involving them, and her insurance company is also resistant to providing her with full protection and certifying her home’s electrical system.”

Mr. Lewis stated he had discussions with Ms. Solanki, and he had asked her to follow up with Mr. Chamberlain post the incident because before she can go back into the home, there needs to be an inspection for Use and Occupancy, and that has not happened yet. Mr. Lewis asked if we could get our electrical inspector to go out there, and Mr. Kratzer agreed. Mr. Lewis asked if repairs have been done yet. Ms. Solanki stated she was advised by her insurance company to turn the power off to reduce further damage. Mr. Lewis stated he understood that she indicated she had an electrician inspect, and he asked if he did the repairs. Ms. Solanki stated if it had been repaired there would be no evidence and no report. She stated an electrician came out “on emergency” the night of the fire and “performed a diagnostic and looked at a few receptacles;” and that is when he thought his equipment was off and went to the neighbor’s house to check, and his equipment was fine, and it was her numbers.

Mr. Majewski stated he could have the Fire Services Director, our Building Code Inspector, and our Building Inspectors from Barry Isett get in touch with Ms. Solanki to try to move things forward so that she can back into her home safely. Ms. Solanki stated she has talked to Mr. Kirk and her outside electrical inspector. She stated her background is architecture so she is familiar with NFPA and other Codes, and she understands that the values reported at her home were more than 50% higher than what they should have been. Mr. Majewski stated he will contact her tomorrow, and they will try to get this resolved.

Mr. Lewis asked Ms. Solanki to forward to him any e-mails or written correspondence she has from PECO, and he will provide it to the rest of the Board and the Township Manager. He stated they can bring this to an individual at PECO who they typically deal with. He stated they also need to discuss this with the PUC. He advised Ms. Solanki that if she needs help filling out the forms, they can work with her on that. He stated they need to make sure the home is inspected before she goes back in.

Mr. Grenier asked the age of the home, and Ms. Solanki stated it is more than 50 years old. Mr. Grenier asked Mr. Majewski if there is any indication if there are other homes of a similar age in the area that have had similar issues that we had to deal with in the Township. Mr. Majewski stated he is not aware of anything, but he can look into that. Mr. Grenier stated we want to make sure that others do not deal with this as well. Ms. Solanki stated they were very clear that it “was an old way of connecting.” She stated they have been in the neighborhood with tree trimming and cutting, and should keep their eye on wiring as well.

Mr. Coyle stated there may be a way to advise residents how to check for this in their own homes. Ms. Blundi agreed. She thanked Ms. Solanki for sharing this with the Board so that others can learn and avoid this happening again. Ms. Blundi stated we could do an educational piece on the Township Website.

There being no further business the meeting was adjourned at 11:59 p.m.

Respectfully Submitted,



John B. Lewis, Secretary