

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MARCH 6, 2024

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on March 6, 2024. Mr. Lewis called the meeting to order at 7:40 p.m. and called the Roll.

Those present:

Board of Supervisors:        John B. Lewis, Chair  
   Daniel Grenier, Vice Chair  
   Suzanne Blundi, Secretary  
   James McCartney, Supervisor

Others:                            David W. Kratzer, Jr., Township Manager  
   David Truelove, Township Solicitor  
   Isaac Kessler, Township Engineer  
   Kenneth Coluzzi, Chief of Police

Absent:                             Matt Ross, Treasurer, Board of Supervisors

#### COMMUNITY ANNOUNCEMENTS

Mr. Lewis stated that during this portion of the Agenda residents and youth organizations may call in to make a special announcement or 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 from the public wishing to make an announcement at this time.

Mr. Lewis stated the Yardley Farmer's Market will be held at the Lower Makefield Township Community Center, 1550 Oxford Valley Road from 10:00 a.m. to 12:00 p.m. the first and third Saturdays from December, 2023 through April, 2024. For more information, you can view the Yardley Farmer's Market Facebook page.

Mr. Lewis stated the Parks & Recreation Department is hiring for all seasonal summer positions including Pool, Summer Camp, and field maintenance. To apply, visit [www.lmt.org](http://www.lmt.org).

Mr. Lewis stated Registration for the Pool at LMT opened on January 29<sup>th</sup>. To register visit [www.lmt.org](http://www.lmt.org).

were removed. She stated there was a design effort to see what could be done to make sure that the plants they wanted would come back and those that they did not want would be suppressed. She stated this year will be the first year after that renovation, and there are plans to improve the Garden.

#### RECOGNITION OF JIM BRAY

Mr. Lewis stated Mr. Bray has provided over twenty years of dedicated service to the Township. He stated Mr. Bray is not only a master gardener but was the architect of our Native Plant Ordinance, and is an asset to the community. A plaque was presented to Mr. Bray.

Senator Steven Santarsiero and Representative Perry Warren were present. Mr. Santarsiero stated he and Mr. Warren are present to extend their gratitude on behalf of the State and entire community for Mr. Bray's service over the last twenty years. Mr. Santarsiero stated as noted earlier Mr. Bray was the main architect of the Township's Native Plant Ordinance, which was the first of its kind in the County and has become a model for other communities as well. He stated Mr. Bray was also the driving force behind the Township's Low Impact Development Ordinance which helps with stormwater management and received an award from the U.S. EPA. Mr. Santarsiero stated in 2006 when the Board of Supervisors decided to give the EAC new authority to review Land Use Plans and report to the Board of Supervisors as to the impact of those proposed developments from an environmental standpoint, Mr. Bray embraced that fully and led the EAC in giving meaningful input to the Board of Supervisors. Mr. Santarsiero stated the EAC also did a thorough job of doing an inventory of our remaining open space and ranked those properties in terms of which property would be most susceptible to potential development to help guide the Township in making decisions as to what to preserve moving forward. Mr. Santarsiero stated all of this has had a tremendous impact on our community and made Lower Makefield a leader when it comes to environmental protection. Mr. Santarsiero thanked Mr. Bray for all of the work he has done and his dedication which has made a difference adding that Mr. Bray will continue in his work to make a difference.

Certificates were presented to Mr. Bray on behalf of the Senate and the House as well as a flag of the Commonwealth which was flown over the State Capitol in Mr. Bray's honor.

Mr. Warren stated in addition to the tangible contributions Mr. Bray has made to the community, the intangible contributions are reflected in those present this evening who share and have learned from Mr. Bray's commitment to the environment and focused the community's interest in maintaining, preserving, and improving the environment.

Mr. Bray thanked everyone for the awards. He stated the real driving force behind all of the projects noted were the people on the Environmental Council who were results oriented and got a lot done. He stated they are not done yet.

#### BIRD TOWN PENNSYLVANIA PRESENTATION

Ms. Heidi Shiver, President of Bird Town Pennsylvania, was present. She stated Lower Makefield was a Bird Town in 2011 when the program started; and she is happy that they are "back on track" with Mr. and Ms. Bray's help and others. Ms. Shiver stated their mission is to partner with local Municipalities and like-minded organizations to promote community-based, conservation actions to create a healthier, more sustainable environment for birds, wildlife, and people. She stated they have been actively engaging with Municipalities in the State for over twelve years, and there are now fifty programs across nine Counties. She stated Bird Town Pennsylvania is owned by Pennsylvania Audubon Council and they are no longer under Audubon PA which no longer exists. She stated *they are building relationships and partnerships with other conservation groups.*

Ms. Shiver stated they focus on birds since birds keep our ecosystems running smoothly, bring joy and beauty, and help us understand if the environment is healthy. She stated they need our help as populations are declining because of loss of habitat, cats, window collisions, pesticides, climate change, invasive species, and plastics; and Bird Town helps address these issues. She noted a number of examples of what Bird Towns can do including installing native plant/pollinator rain gardens and working with Schools, etc. She discussed the improvements made in communication and networking between the Bird Town Programs and conservation partners. Social media presence was discussed and a list of their conservation partners was shown. Ms. Shiver stated information on workshops and other information can be found on their Website. She thanked the Township for becoming a Bird Town again adding that she looks forward to working with Ms. Bray and the EAC.

Bird Town signs were presented this evening.

Mr. McCartney asked that the Bird Town link be added to the Township's Website, and Mr. Kratzer agreed to do so.

#### PARKS AND RECREATION

##### Establish 2024 Pay Rates for Seasonal Parks and Recreation Employees Consistent with the Adopted 2024 Budget

Mr. McCartney moved and Mr. Grenier seconded to approve the 2024 pay rates for seasonal Parks & Recreation employees consistent with the adopted 2024 Budget.

Ms. Tierney stated the rates are in line with last-year's rates except for the Camp Director position which was budgeted for this year. She stated they are still working to fill the Summer Camp Director position, and those interested should reach out to her at [monicat@lmt.org](mailto:monicat@lmt.org).

The proposed rates were shown with the Summer Camp Director being the only one different from last year. She stated all returning employees receive a 3% increase from last year's wages, and they also have the opportunity to move up. She stated there are heavy returns for the Pool and Summer Camp this year.

Motion carried unanimously.

#### POLICE

##### Authorize Transfer of an Existing Previously-Purchased Fleet Vehicle from Use by the Police Department to Use by the Public Works Department

Chief Coluzzi stated this is for the transfer of a 2013 Tahoe with 106,533 miles on it.

Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried to authorize the transfer of an existing previously-purchased fleet vehicle from use by the Police Department to use by the Public Works Department.

ENGINEER'S REPORT

Mr. Kessler stated the Board received the Engineer's Report in their packet.

General Project Updates

Mr. Kessler stated with regard to the Highland Drive Drainage Project, the last meeting with PA American Water will be held tomorrow; and that will finalize the relocation of their main. He stated PECO Gas is also relocating their gas line in the project area. He stated this will be part of the Permitting that goes to DEP which they hope will be submitted next week. He stated DEP will then review that, and the hope is that we will have a response from them in about one month. Mr. Kessler stated during that time his office will be continuing to put together the Bid package so that when we have Permit approvals advertisement can be done shortly thereafter. Prior to going to out to Bid, this will be brought before the Board of Supervisors.

Mr. Kessler stated the Road Program is currently out to Bid, and the first advertisement was today. It will be advertised again as required on March 12, and the Bid opening is scheduled for March 27. It is anticipated a recommendation will be before the Board of Supervisors on April 3. Contracts will then be put together so that work can begin once the weather warms.

Mr. Kessler stated with regard to the Woodside Road multi-use path, his office has been coordinating with PECO and Verizon who are the owners of the utility poles which are to be moved to allow the trail to be completed. They have responded, and coordination should be completed within the next two to three weeks. Once the pole re-location is complete, the trail will be finished once the temperature allows for paving.

Mr. Grenier asked Mr. Kessler when he estimates the Highland Drive Project will be completed. Mr. Kessler stated as he noted they are waiting for Permit approvals, and will then come to the Board in late April/early May for approval to go out to Bid. He stated they are waiting until the Permit approval before the Bid documents are advertised. Mr. Grenier stated he assumes it could be done in June. Mr. Kessler stated they are looking at summer for construction.

MANAGER'S REPORT

Approve Zelenkofske Axelrod LLC's Proposal for Auditing Services

Mr. Kratzer stated this is for auditing services for the fiscal years ending December 31, 2023, December 31, 2024, and December 31, 2025. He stated a Request for Proposal was issued in January, 2024 and sent directly to seven firms. He stated there was only a single response to the RFP. The response from Zelenkofske Axelrod was reviewed and is complete.

Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried to approve Zelenkofske Axelrod LLC's proposal for auditing services.

Discussion and Tabling of an Ordinance Amending the Definition of Open Space Within the Zoning and Subdivision and Land Development Ordinances

Mr. Kratzer stated the Board had previously authorized advertisement of this Ordinance. He stated this definition was incorporated into the broader amendments which were made last year relative to the requirement for developers to provide open space in addition to Park & Rec areas as part of Land Development projects. Mr. Kratzer stated the definition, consistent with the Board's direction at the time that advertisement had been authorized, now includes "athletic fields" as one of the enumerated examples that will not constitute open space. Mr. Kratzer stated the Ordinance has been reviewed by both the Township's Planning Commission and the County Planning Commission with both entities recommending approval. He stated the Ordinance has been duly advertised.

Mr. Grenier moved and Mr. Lewis seconded to approve the Ordinance amending the definition of Open Space within the Zoning and Subdivision and Land Development Ordinances.

Mr. Truelove stated if this is approved this evening, any Applications that come in will have to comply with this Ordinance.

Mr. McCartney asked for further information as to the specific change. Mr. Truelove stated it was to add the term "athletic fields" to the list of what would not qualify as open space. Mr. McCartney asked if it is specific to the type of athletic fields, and Mr. Truelove stated it is not.

Mr. Kratzer stated the genesis was to specifically exclude impervious surfaces from the definition of open space such as basketball courts, tennis courts, and pool facilities that may be located in a development. He stated when it was brought before the Board previously, the Motion made and enacted upon to advertise was to specifically list “athletic fields,” as being excluded from the definition of open space.

Mr. Grenier stated in our Open Space Ordinance there is a difference between recreational space and open space and it is to make sure that developers and others who are applying for Site Plan approvals through SALDO do not attempt to take credit for open space. He added that they have to provide recreational space; but we do not want them “double dipping,” and we want to make sure that they do both. He stated we want to make sure they are clearly defined in the Ordinances moving forward. He stated it is not to prevent athletic fields at all.

Mr. McCartney asked if they can choose one over the other, and Mr. Kratzer stated they would have to meet both requirements. He added many choose to pay a Fee-In-Lieu of Park & Rec; but to the extent that they want to improve land to meet the Ordinance requirements as it relates to Park & Rec facilities, they would do that, and in addition to that, they would have an obligation to provide open space. Mr. McCartney asked what the Ordinance says percentage-wise as to what has to be for recreation and open space. Mr. Kratzer stated it is a minimum of 25% open space according to the Ordinance that was passed in August of last year. Mr. McCartney stated if this passes tonight, this Ordinance would apply to all new Applications effective tomorrow.

Ms. Blundi stated she understands that if a soccer field were built with soccer field lines around it, that would not count going forward as open space. Mr. Grenier stated if there were an open field such as a meadow or a wetland that has herbaceous vegetation and is dry, this change would not limit anyone from using that space. Ms. Blundi stated she understands that most developers choose to pay Fee-In-Lieu as opposed to building athletic fields, and Mr. Kratzer agreed. He added this would require reservation of some open space on top of that.

Mr. McCartney asked if there is a demand for athletic fields, and there is an opportunity to have a developer put athletic fields in a new development, would this steer them in that direction or deter them. He stated developers would now be asked to do two things in a new development – one being open space and the other being athletic fields. Mr. Grenier stated they have always

been responsible for both. He stated while most developers pay Fee-In-Lieu for recreational space, the Township could ask them to build a field instead; but that would all fall under the recreational requirement and would not cover any open space requirements. Mr. Kratzer agreed those are separate requirements. Mr. Kratzer stated 25% would be dedicated to park land, 25% would be dedicated for open space, and the remaining 50% would be developable in that scenario. He stated a developer could choose to pay the Fee-In-Lieu instead of the park land requirement. He stated prior to the open space requirements, the majority of the parcel would have been developed in terms of use, but now there is a requirement to do a minimum of 25% open space, and they could potentially do more if they wanted to meet their park obligations. He stated in the area that is being dedicated as open space, they could not have athletic fields on that space.

Mr. McCartney stated he is looking for a way of steering it so that we get some kind of recreational use. Mr. Grenier stated during the process, we could discuss with the developer looking at something else other than paying Fee-In-Lieu. Mr. McCartney stated perhaps the Ordinance should not “give them the out of Fee-In-Lieu;” however, Mr. Kratzer stated that is a requirement of the Municipalities Planning Code which is a choice of selection at the developer’s discretion and not the Township’s discretion.

Ms. Blundi stated she still does not feel the language is right. Mr. Grenier stated he feels we need to be very deliberate in how we write this so that developers do not try to take advantage of our Ordinances based on the wording. Ms. Blundi stated while she totally agrees with the intent, she feels that this will have the unintended consequence of not getting any fields. Ms. Blundi stated she feels that a soccer field is in fact open space; however, Mr. Grenier disagreed. Mr. Grenier stated a soccer field is treated with herbicides, pesticides, fertilizers, etc.; and the intent of open space is to not overly treat a lawn, which is what a soccer field is in effect. Mr. Grenier stated soccer fields, golf courses, etc. are “actually quite terrible for the environment,” although they do provide a benefit to those who use them from a recreational perspective. Ms. Blundi stated she feels this will have the unintended consequence that we will not be getting any more recreational space as part of any future development. Mr. McCartney stated that is his concern as well.

Mr. Lewis stated in recent memory he believes the only development that had enough open space that could potentially have a field was Prickett Preserve. He stated there are some other properties in the Township



that may have that capacity in the future. He stated the way property laws are in Pennsylvania, we do not always have the option to force those options on developers; but he feels it is important for us to continue to look for them. Mr. Lewis stated what the Board passed in 2023 was designed to give the Township more tools and options. He stated recent developers have not been interested in those.

Mr. McCartney asked if a developer were to provide recreational space who would manage that space. Mr. Truelove stated if a developer were to provide recreational space, he feels at some point it will be turned over to the Township to maintain it; and that creates other issues for the Township, although he is not saying that cannot be done or that we do not need more recreational facilities.

Mr. McCartney noted the definition of recreational space, and he looks at basketball courts, pickleball courts, etc. with impervious surfaces differently from an open field that could be used for recreation. He asked if there would be an Agreement with the developer as to who would manage that field, and Mr. Truelove stated every development would be a different situation. Mr. Kratzer stated if land was being dedicated to meet the park land requirement, that would be physical dedication to the Township, and the Township would be responsible for it. He stated with regard to the open space requirements, which was a new requirement, that required the submission of a Management Plan at the time of the development. He stated that would identify ownership, maintenance responsibilities, etc.; however, that does not exist on the recreation/park land side.

Ms. Blundi stated a number of the more-recent developments have had HOAs; and to the extent that they are either public areas or fields such as in Spruce Mill when the Dog Park was previously a soccer field, that was on the HOA.

Mr. Mike Brody, 509 Brookbend Court, stated he is on the Park & Rec Board and agrees with Ms. Blundi and is concerned what this will do. He stated he believes that this should have been presented to the Park & Rec Board to be given the opportunity to ask questions before there is a change to land classifications and different Park & Rec facilities.

Mr. Kratzer stated this is simply a definitional change, and the open space requirement was already adopted by the Board of Supervisors in August of last year.

Mr. McCartney stated he feels it is the verbiage of “athletic fields” that is of concern. Mr. Grenier noted the discussion over the years about Snipes, and it had been argued that building a sports complex was providing open space to the community; however, “the other side” was saying it was not open as it was a sports complex. Mr. Grenier stated while a sports complex has its own benefit as a recreational complex, it is by definition not open space. He stated that can be supported through “all kinds of different literature on the topic whether it is scientific or planning literature.” He stated while we are looking for more fields, “providing open space is not an argument for more fields.” He stated this definition is not trying to make an argument for one or the other as we need both; and by our Ordinances, the developers are required to provide both. Mr. Grenier stated the issue is that the Municipalities Planning Code “gives them an out” specific to recreational space because of the “Fee-In-Lieu program.” Mr. Grenier stated the theory is that we can take those fees and give it to the Park & Rec Department to “do something else in maybe a bigger space or whatever we want to do.” He stated “when we want to, it would be nice if we could force them to provide that space, but unfortunately we cannot do that.”

Mr. Truelove stated the MPC is designed for developers. He stated Pennsylvania is a very diverse State, and there are places that want to develop as much as they can because of the ratables because their economy has been depressed for so long. He stated our area is not like that, but it applies across the board; and we cannot make a rule different from what the State law does.

Mr. Grenier moved and Mr. Lewis seconded to Table. Motion did not carry as Mr. Grenier and Mr. Lewis were in favor, and Ms. Blundi and Mr. McCartney were opposed.

Mr. Grenier stated Mr. Ross is not present this evening, and he has strong opinions on this; and this is why he moved to Table out of respect for him. He stated if there is a tie on the original Motion, it will fail; and he asked if we could bring this up at a future meeting. Mr. Truelove stated we would have to re-advertise.

Mr. McCartney stated out of respect to Mr. Ross, he would ask Mr. Grenier to Move to Table again.

Mr. Grenier moved, Mr. Lewis seconded, and it was unanimously carried to Table.

Ms. Blundi asked that we take into account Mr. Brody's comments and look at language that could meet everyone's concerns. Mr. Lewis stated he would be willing to speak to Mr. Brody and discuss the process with him in more detail. He added that a member of the Planning Commission is present this evening and they discussed this issue. Ms. Blundi stated it was indicated that Park & Rec did not know about it. Mr. Truelove stated since it was Tabled, there is no definite date for it to be brought back so it could be reviewed further and brought back when the Board of Supervisors decides.

#### Discussion Regarding Use of a Consent Agenda for Routine/Ministerial Agenda Items

Mr. Kratzer stated Mr. Ross had raised this issue. Mr. Lewis stated when running meetings, they want to make sure that the majority of the meeting focuses on the most important parts and make sure that everyone has the opportunity to have input. He stated there are a number of things which are routine, and many Municipalities will batch those items up in a Consent Agenda. He stated if any member of the Board or the audience objects to any of the items on the Consent Agenda, that could be removed; and the remaining items could be passed. He stated that would help improve meeting focus to items where there are concerns. Mr. Lewis stated the advantage would be somewhat shorter meetings and allow the Board to focus on items that are of most concern. He stated prior to agreeing to do this, he wanted to make sure that everyone felt the process was trustworthy and that they had the information so that if they had a concern about a Consent Agenda item, they could immediately remove it. He stated he also wanted to gauge input from the Supervisors and members of the community as to using this. He stated this would not be a way to "hide things or not share," but it would be a way to share as much as possible and execute quicker.

Mr. McCartney stated he would be in favor of this with the methodology discussed by Mr. Lewis making sure that we are not hiding any Agenda items but are streamlining the meeting and keeping the professionals here only as long as we need them to be and engaging as much interaction on the "hot topics."

Ms. Blundi stated her only concern is procedural, and she feels that this should have been under Other Business so that it stood out more to get more input from people. She stated she is used to Consent Agendas in her professional life, and she would support this.

Mr. Lewis asked if we could provide more information when we release the Agenda on the Consent Agenda items so that people have the detail around them. Mr. Grenier stated “in the rush to get out Agendas sometimes not all of the information is readily available for Agenda items not always allowing for enough time to review in detail.” He stated Consent Agendas put a lot of onus on Board members to review things in detail ahead of time to make sure they are okay with everything. He stated generally speaking he feels this is a good idea provided we can get the information out and make sure that items that the public may want to comment on or better understand are readily available for them.

Mr. Lewis stated the meetings have been opened up to callers, and he asked the Board if they would feel comfortable if a caller called in asking that something be removed from the Consent Agenda versus a Board member or an audience member in the room. Mr. Truelove stated he feels we would have to be fair to everyone across the board.

Mr. Grenier stated he has reviewed what other Townships do, and some of them put out meeting packages on their Website; and we have not done this historically for everything. He asked if we should consider this moving forward if we are going to have a Consent Agenda. Mr. Kratzer stated prior communities he has worked with provided the entire meeting packet with the supporting documentation assessable on the Website; and if that is the desire of the Board to start that practice, there is nothing that is limiting from a technology standpoint.

Mr. Truelove stated many School Districts use Consent Agendas, and they use a platform called BoardDocs, and there is a public site and one for the members.

Mr. Lewis stated he would suggest that Board members get access to all of the documents on the BoardDocs before they become public and have time to review them so that they know the particulars before they start getting calls from the public. Mr. Lewis stated we might want to start slowly on this and start with two or three of the least-objectionable, simple items to see how this works.

Mr. Adrian Costello, 2122 N Crescent Boulevard, stated he understands that the Chair puts the Agenda together, and asked if there could be a time constraint such that one week or three days before the meeting the documents for anything that is on the Consent Agenda would have to be published. If it does not make that deadline, it would then have to be a separate Agenda item. Mr. Grenier

stated when he was Chair, if he did not have the whole package by a certain date, that item did not get on the Agenda. Mr. Lewis stated this would typically be for items that we know about.

Mr. Kratzer stated in other Townships Financial Security Releases are included on Consent Agendas as they are generally more routine in nature. He stated the Board would have the ability to pull those items if they wished. He stated every item on a Consent Agenda would be listed. He asked the Board to consider items to be on a Consent Agenda beyond Minutes, Treasurer's Report, etc. which are typical items that are on a Consent Agenda. Mr. Lewis stated we could "test our way in."

#### Discussion of LGBTQ+ Inclusive Local Non-Discrimination Ordinance and Direction to Township Solicitor

Mr. Kratzer stated this was previously discussed but not specifically listed on the Agenda, and some Board members expressed a preference to bring this back as an explicit Agenda item. Mr. Lewis stated while we discussed parameters around this, we did not officially authorize the Township solicitor to prepare the Ordinance.

Mr. Grenier moved and Mr. Lewis seconded to authorize the Township solicitor to prepare a LGBTQ+ Inclusive Local Non-Discrimination Ordinance.

Mr. Truelove stated an Ordinance would establish legislation that would convey the law of the Township in terms of anti-discrimination, and many communities have enacted such Ordinances and at the same time created a Human Relations Commission. He stated those are usually bodies that hear complaints and sometimes it goes through mediation. He stated Middletown, Yardley Borough, Langhorne Borough (which his office drafted), Newtown Borough, and Doylestown Borough already have such an Ordinance on the books although they are not all identical. He stated they convey a sense of the Township that this kind of behavior cannot be tolerated under certain circumstances. Mr. Truelove stated the Board will need to decide how far they want to go with this including what to do with the information once it is provided as to discrimination. He stated he can provide samples for the Board to look at. He stated the County has had an Ordinance on the books for quite some time, and one of our community members is a member of that County HRC.

Mr. McCartney asked if the State has this in place; and Mr. Truelove stated it does not but it does not have some of the same protections as some of the others, and the State law is not as strong as some of the local Ordinances. Mr. McCartney asked if the Federal Government have something in place; and Mr. Truelove stated it does, but it has limited jurisdiction, so how it applies depends on different circumstances. He stated it would be under Title VII, and it is usually in an employment context although sometimes it is housing or other circumstances.

Mr. McCartney asked if hate speech against another person would be considered an offense, and Mr. Truelove stated it would if the hate speech was directed to someone because of their protected class. Mr. McCartney asked if hate speech is not considered free speech, and Mr. Truelove stated that would depend. Mr. McCartney asked if it could become criminal if it was harassment, and Mr. Truelove stated it could. Mr. McCartney stated he is trying to avoid a situation where one resident accuses another resident of saying something that may be considered under this Ordinance, and now that resident has to go before a Human Relations Committee. Mr. McCartney stated he does not feel “this makes any sense at all,” and feels these classes are all protected at a Federal, State, and County level; and he is not sure what the message is with the Municipality trying to put something together.

Mr. Lewis stated there are gaps in protections for non-discrimination in the workplace that are not covered by State Law, which is why over ninety-nine Municipalities implemented similar Ordinances many years ago. He stated when the Board discussed this previously, the hope was that the State would resolve many of those gaps; but that has not happened. Mr. McCartney asked about the County, and Mr. Lewis stated he does not know if the County has resolved all of the gaps. Mr. McCartney stated if we are talking about something that is specific to a workplace environment, he feels that is completely different from what the intent of this Ordinance might be.

Mr. Kratzer stated this is not a speech regulation in any fashion, and there has to be some discrimination based on an employment or housing decision.

Mr. McCartney asked about the Human Relations Commission; and Mr. Truelove stated if the Board of Supervisors were to decide to go with that, that Commission would hear complaints. He stated that Commission could have limited jurisdiction. Mr. McCartney stated there is protection

now; and if someone had an employment issue, they could go as a protected class to the Federal Government. Mr. Lewis stated that is not true in all circumstances. Mr. McCartney asked what jurisdiction the Township would have to go after a company that is found practicing this. Mr. Truelove stated some communities take that information and report it to one of the enforcement agencies. Mr. McCartney asked if we could not direct a resident to do that now. Mr. Truelove stated while we could, the question is whether they would feel comfortable doing that without having some kind of protection under the Law.

Mr. Truelove stated before the Board directs his office to draft anything, he would suggest that he supply the Board with examples. Mr. Blundi stated this is what she requested the last time this was discussed. She asked if before the Board asks Mr. Truelove's office to draft anything if the Board would feel comfortable in a gap analysis being done to show if what the County or the State has is not sufficient. She stated without understanding that, her concern is that we might create inequality while we are trying to address inequality. Mr. Truelove stated his office could do that as well as provide examples of different Ordinances that have been enacted at the Municipal and County level. Ms. Blundi stated she would like to understand what we feel the State and the County are not doing.

Mr. Grenier stated both Bucks County and Pennsylvania have outreach components, and they could come and give a presentation to the Board about this specific issue and tell us where there are gaps and how others do it as well as how we can interact with the County and the State. He stated while we do not always hear about a lot of it happening in Lower Makefield, we know it does happen. He stated when it happens we want to make sure that our residents have a way to address it.

Ms. Blundi stated if that is our concern, she does not feel that it is limited to just the LGBTQ+ community; and if we want to make sure that there is no discrimination, the gap analysis may have to be broader. Mr. Grenier agreed.

Mr. McCartney stated he does not feel we have the staff to process these types of issues at this point. He stated he feels at this point it would be best to refer someone to an agency in the County, State, or Federal Government. Mr. Kratzer stated that is an option. He stated where he worked in Dauphin County, there was a local Human Relations Commission; and their jurisdiction was limited to the areas where there was a gap in

existing law. He stated while there may be a value to being broader, there are also the capacity issues that Mr. McCartney has raised. He stated in many of these in circumstances where there is State, Federal, or County law, you would just act as a referral agency. He stated if someone were to come to the Township indicating they were experiencing gender discrimination in a private employment matter, they would advise them to contact the Pennsylvania Human Relations Commission who has jurisdiction over that and there is State Law covering that issue. He stated he understands that the intent is to look at where there are gaps as it relates to sexual orientation and gender identity as there is very limited to no protection in existing State law on those two issues. He stated once there were appropriate Amendments to State Law, it could be codified in the Ordinance that it would go away since you do need to be concerned when there is cross-jurisdiction.

Mr. McCartney asked if it would be better for the Board to write a letter to our State Senator and State Representative to push that type of Legislation, and Mr. Lewis stated we have done that. Mr. Lewis asked Mr. McCartney if he agrees that this is an issue that needs to be addressed, and Mr. McCartney stated he does not know that it is as he has no hard data.

Mr. Kratzer stated in another community outside of Harrisburg, they had one case that came before them and it was jurisdictionally misplaced as it was a Zoning matter and not something that was covered by the entity; *however, it is a forum for people to come to with a complaint.* He stated many of these Commissions are not very active, but they provide a forum and education to communicate what is available in the Commonwealth.

Mr. McCartney asked Mr. Lewis if he was aware of any incident within the Township, and Mr. Lewis stated he is. Mr. McCartney asked if it was reported to the Police, and Mr. Lewis stated they would not have standing. Mr. Truelove stated discrimination does not have to be criminal. Mr. McCartney asked if they filed a Civil Suit, and Mr. Truelove stated if it is not a PHRC or EOC issue, that may be the problem since there is no forum for them.

Ms. Blundi stated on the Web she has read that the Bucks County Human Relations Council was established to end discrimination based on age, race, color, gender, religion, creed, social economics, sexual orientation, ancestry, handicap, or disability. She stated she would be in favor of the gap analysis and being educated about what resources are available.



Mr. Kratzer stated there is a resource at the PHRC level, and they would come to the Board to discuss the existing gap and what other communities have done in this area and for general education.

Mr. Lewis stated he knows of an employment discrimination situation in Lower Makefield from a number of years ago, but he does not have a total number of those cases. He stated he wants to make sure that we have the resources so that the community has advocates and that we are welcoming to everyone. He stated he believes that there needs to be more education so that all Board members are comfortable considering an Ordinance. Mr. McCartney stated anything that affects the residents affects him although he has not heard of any incidences. Mr. McCartney stated he understands the objective is to make sure our residents are protected and feel that they are in a safe environment; however, he is not sure that creating an Ordinance of this magnitude necessarily creates that environment. He stated he feels that it may make you feel that you are creating that environment, but it is not necessarily doing so. He stated we do not have the staffing to support this in the Township.

Mr. Truelove stated it may be more of a referral process. Mr. McCartney asked if we are doing that with all protected classes; and Mr. Truelove stated for the gap analysis he would not have to, and it would only be for those who are not protected. Mr. McCartney stated he feels we should do a broader analysis of what protected classes have, and see if there are gaps for all protected classes and not just specific for the LGBTQ+ community. He stated he would not want to say that one protected class is more important than another. Mr. Truelove stated they would look at the EOC and their jurisdiction under Title VII and the PHRC to show what they do and what they address.

Mr. Grenier stated he feels the gap analysis coupled with a presentation from PHRC will be very educational and allow everyone to understand what is going on in the Commonwealth and the Township; and how the Township can address this.

Ms. Blundi asked Mr. Kratzer if we can make sure that our Website includes this kind of information so that if people feel that they have been discriminated against they could access a link to some of the resources; and Mr. Kratzer agreed to do that.

Mr. Lewis suggested amending the Motion to authorize the Township solicitor to prepare a gap analysis of LGBTQIA+ inclusive communities with respect to housing, employment, and public accommodations and to provide recommendations for policy options based on those gap analyses.

Ms. Blundi stated she would not be in favor of that.

Mr. Grenier suggested amending the Motion to direct the Township solicitor to conduct a gap analysis relative to protected classes related to workplace, public accommodations, and housing discrimination. Ms. Blundi asked that it be limited to Bucks County. Mr. Grenier stated it would also be to direct the Township solicitor to come up with policy recommendations. Ms. Blundi stated she would not be in favor of having the solicitor come up with policy recommendations, and he should provide the Board with information so that the Board can discuss how to move forward.

Mr. Truelove stated he believes at this point the Board wants to know what the Law is and “where it may be empty,” and the Board can then decide what they want to do or direct his office further to look at what the options may be after having further discussion.

Mr. Grenier stated he wants the gap analysis, and as part of the information provided some examples of what others have done that we could use that to progress the conversation. He stated he would also like to direct the Township Manager to invite representatives from PHRC and the Bucks County Human Rights Commission to a Board of Supervisors meeting to present on the issue. He stated he would like both of the presentations and the information from the solicitor to be done in the same time period.

Ms. Blundi asked if the Agenda needs to be amended, and Mr. Truelove stated there is already an item on the Agenda and a Motion to authorize his office to prepare an Ordinance, and this would be related. Ms. Blundi asked about what they are asking of the Township Manager, and Mr. Kratzer stated the Board can direct him without going through a Motion.

Mr. Grenier moved, Mr. Lewis seconded and it was unanimously carried to direct the solicitor to conduct a gap analysis related to protected classes associated with workplace discrimination, public accommodations, and housing, and to provide examples of what other communities in Bucks County have done relative to these issues.

Mr. Kratzer was asked to reach out to the organizations discussed earlier to make a presentation at the Board of Supervisors. Mr. McCartney asked that they also involve Chief Coluzzi to see if there have been any reports filed with the Police Department.

#### Informational Items

Mr. Kratzer stated the bulk of the net proceeds from the sanitary sewer sale were put into the Lower Makefield Township Community Trust, and the deposits into the Trust were \$21 million. He stated at this point there has been positive interest growth in the Trust assets, and the current balance as of February 29, 2024 is \$23,106,823.64. He stated the proceeds have been invested consistent with the Investment Policy Statement that the Board adopted, and there is positive growth in assets that is occurring in that Trust instrument.

Mr. Kratzer stated LandStudies has been doing additional work as part of the Change Order that the Board authorized. He stated today they were scheduled to do the survey work, but he is not sure if that occurred because of the weather. He stated some of the geo-probing that was contemplated to be done to assess the drainage characteristics of the soils in the area that the Township owns north and south of the Maplevale neighborhood is scheduled to occur on March 19 and March 20. They may also be on site on March 18. He stated once that work is done, they will report back to the Township, and we will continue our efforts to try to address some of the concerns that have been expressed relative to drainage in that area of the Township.

#### SOLICITOR'S REPORT

Mr. Truelove stated there was an Executive Session beginning at 6:30 p.m. Items discussed related to personnel, litigation, and informational matter.

#### Approval of Resolution #24-8 Authorizing the Approval of an Easement Termination and Release Agreement Related to the Former Bright Farms (748 Stony Hill Road)

Mr. Truelove stated when Bright Farms was awarded the use of the property, an Easement had to be created for them to have access to it. He stated they

are no longer there. He stated there was no Easement before they were there, and there is no need for one now. He stated the Stewarts who farm the area behind the area have other access.

Ms. Blundi moved to approve Resolution #24-8 authorizing the approval of an Easement Termination and Release Agreement as related to the former Bright Farms (748 Stony Hill Road). There was no second.

Mr. Kratzer stated the original Easement was for purposes of the greenhouses that Bright Farms was operating. He stated the existing Easement was very restrictive in terms of use, and it was not a General Access Easement but was specific to the operation of a greenhouse on that property. He stated it is not a broad use Easement that exists on the property, and it is very restrictive in terms of its use.

Mr. McCartney asked what would happen if a future Board decided to approve a greenhouse use on that space again, and Mr. Truelove stated they could issue another Easement if this one were released. Ms. Blundi asked if this Easement could be useful to the work being done by the Patterson Farm Committee. Mr. Kratzer stated if they wanted to recommend the establishment of a greenhouse at that location, it could be useful; however, if the thought is that it would provide an alternative means of access to Patterson Farm for the farming operation that is occurring, the answer to that is no since the Easement is very restrictive in terms of what the Easement can be used for.

Mr. McCartney asked what is the advantage of terminating the Easement. Mr. Truelove stated because the purpose of the Easement no longer exists, if the Township refused to terminate the Easement, the current property owner could go to Court and force the issue although he is not saying that they would do that.

Mr. Grenier stated his concern is less about allowing it be a greenhouse since at this point "he does not really like that idea," his concern is whether or not they have done everything they were supposed to do and remediated everything. He stated he has heard people complain that you cannot farm there anymore or that it looks "terrible." He stated he does not want to release them from an Easement Agreement when they may still be liable for other things. He asked if we feel it has been remediated back to its pre-greenhouse condition. Mr. Kratzer stated this not releasing Bright Farms of any obligation, and it is releasing the Easement through the adjacent property; and they are separate issues.

Mr. Grenier stated he understood that there was some infrastructure that existed which was to be removed and he wants to make sure that was done. He stated he feels any use the Patterson Farm Committee might recommend in that area whether it is greenhouse or not would probably be something unique or new, and he does not know that this Easement would necessarily help anyone or if there was a future Board that wanted a greenhouse for something else. He stated spatially they may want to negotiate a new Easement so he is not sure it would help to keep it as is.

Mr. Lewis seconded the Motion.

Mr. McCartney asked if we will lose leverage with Bright Farms. Mr. Truelove stated this is for the limited purpose of accessing the greenhouse which no longer exists. Mr. Grenier stated if they did not remediate it accordingly, we could still “go after them,” and Mr. Truelove agreed. Mr. McCartney stated the Township created the Easement, and Mr. Truelove agreed adding that it was for the benefit of Bright Farms. Mr. Grenier stated the property will revert back to farm use and “no access.”

Motion carried unanimously.

#### ZONING HEARING BOARD MATTER

With regard to Appeal #Z-24-6 Whiteside/Konyves for the property located at 927 Piper Lane, Yardley, PA 19067, Tax Parcel #20-055-194 Variance requests for an in-ground pool from Township Zoning Ordinance #200-23B which would increase the impervious surface from the existing 23.2% to 25.8% where 18% is the allowable amount and Township Zoning Ordinance #200-70A to allow the pool to be located in the front yard where the rear or side yard is otherwise required Mr. McCartney moved, Mr. Grenier seconded and it was unanimously carried that the Township participate.

#### APPOINTMENTS/REAPPOINTMENTS TO BOARDS AND COMMISSIONS

Ms. Blundi moved, Mr. Lewis seconded and it was unanimously carried to appoint Dominique Mitchell as an Alternate to the Environmental Advisory Council.

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PUBLIC COMMENT

There was no one from the public wishing to speak at this time.

There being no further business, the meeting was adjourned.

Respectfully Submitted,



Suzanne Blundi, Secretary