

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – FEBRUARY 20, 2008

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on February 20, 2008. Chairman Caiola called the meeting to order at 7:30 p.m. noting that the Board met in Executive Session from 6:30 p.m. to 7:30 p.m. discussing personnel and real estate matters. Mr. Caiola welcomed Jonathan Snipes, former Chairman of the Falls Township Board of Supervisors, to the meeting. Mr. Maloney called the roll.

Those present:

Board of Supervisors:	Greg Caiola, Chairman Steve Santarsiero, Vice Chairman Matt Maloney, Secretary Ron Smith, Supervisor Pete Stainthorpe, Supervisor
Others:	Terry Fedorchak, Township Manager David Truelove, Township Solicitor Kenneth Coluzzi, Chief of Police
Absent:	James Majewski, Township Engineer

PUBLIC COMMENT

Mr. Scott Burgess, 15 Glen Drive, asked if the Board of Supervisors have received a letter from the Flood Task Force; and while Mr. Smith did, other Supervisors had not. Mr. Burgess stated the letter from Ms. Bush is a template to be sent to the Delaware Valley Regional Planning Commission with recommendations as to the reservoir issue. Mr. Smith asked that Mr. Burgess provide the letter to Mr. Fedorchak so he can make this available to the other Board members. Mr. Burgess asked if they know the date when the back flow preventers will be installed; and Mr. Fedorchak stated Mr. Majewski, who is ill this evening, was working on this. Mr. Burgess advised that as of today the three New York reservoirs which are in the Delaware Basin system are all above 100% and are currently spilling. He stated this is the same condition which occurred prior to the June, 2006 flood. He requested that everyone send an email requesting that they set a plan that includes 20% voids in the reservoirs to [Paula.Schmidt@DRBC.State.NJ.US](mailto:Paula.Schmidt@DRBC.State.NJ.US).

Ms. Jean Broadway, 1473 Yardley-Newtown Road, stated she was originally in favor of Aark using part of the Patterson Farm but has changed her opinion. She stated when the Aark representatives made their presentation to the Board of Supervisors, it was not divulged that the person who would rent the main house would also put up a fence for her private horses until Mrs. Godshalk raised the issue. Ms. Broadway stated she does not

## PRESENTATION OF THE REPORT ON THE ANALYSIS OF THE POTENTIAL SALE OF THE SANITARY SEWER SYSTEM

Mr. Howard Woods Jr. was present. Mr. Caiola stated after the presentation this evening, the Board and public can make comments, but on March 19, 2008, there will be a meeting solely dedicated to this issue. Mr. Woods thanked the Township for the opportunity to perform this work. He stated they were hired in February, 2007 to review the assets of the system and the financial and operating condition of the sewer system. He stated early on in the process they tried to identify any interested buyers. They then went through a very structured process to organize the potential bidders so those bidders could look at the system, understand its financial and operating condition, and ultimately submit proposals for consideration. He stated he has evaluated the proposals and has a firm offer from a qualified bidder to purchase the system.

Mr. Woods stated the sewer system consists of approximately 155 miles of gravity mains, 10 miles of force mains, and eleven pumping stations. He stated there is no wastewater treatment plant and the pipes collect the wastewater and deliver it to some other entity outside of the Township for treatment and ultimate disposal. He stated there are 10,500 residential customers and 225 commercial customers. He stated in terms of revenue, the system produces \$4.2 million a year; but looking at the 2008 Budget, it can be seen that the system is consuming cash and the amount of cash coming into the system is not completely covering all of the expenses. He stated in the 2008 Budget, the Township is actually reducing the starting cash balance through the course of the year.

Mr. Woods stated funds that come in from the customers pay for certain items with 65% of the funds being paid for treatment charges to other entities. He stated this is a concern to potential bidders because this is not a cost that they could directly control themselves. Mr. Woods stated bidders are interested in stability and like to see that the revenue and expenses do not vary greatly from year to year, and the Lower Makefield Township system is stable as it is made up largely of residential customers.

Mr. Woods stated initially they identified eleven entities expressing interest in the system including a Canadian company, an Australian company, and a number of local companies and utilities. Mr. Woods stated once there was a list of potential bidders, he organized the records of the system to facilitate review by the potential bidders. He also prepared a detailed list of instructions on how to submit a proposal which included a Draft Agreement of Sale. He stated they also advertised Nationally in the Wall Street Journal and a trade publication for the wastewater industry to make sure they did not miss any potential bidders.

Mr. Woods stated those interested were asked to register with the Township to insure that those indicating interest were serious about going through the process. They were also asked to submit a registration statement which included a Confidentiality Agreement

prior to the bidders being permitted to look at the financial records of the system. For those that registered, they were permitted to inspect the records of the system as well as to physically look at the system itself. All bidders were required to submit a Qualification Statement which showed their track record as to environmental performance, safety records, etc. The qualified bidders were then asked to submit proposals which was done the beginning of January.

Mr. Woods stated the list was reduced to seven at the Registration stage, and of these seven, he qualified five entities. He stated during the Qualification process, questions were asked of all the entities other than Middlesex as their initial Qualification Statement was extensive and covered all issues of concern. With regard to Falls Township Authority, Mr. Woods stated they asked additional questions regarding their ability to finance the acquisition; and rather than respond to those questions, Falls withdrew from the process at that point.

Mr. Woods stated proposals were received from Middlesex Water Company for \$6.1 million and Aqua Pennsylvania submitted two proposals one at \$15.4 million and one at \$17 million. Although qualified, Pennsylvania American and United Water both opted not to bid. Mr. Woods stated Aqua provided one proposal for a lump sum payment of \$15.4 million due at closing with a guarantee of a one-year rate freeze which was included in the instruction to bidders. Mr. Woods stated Aqua also offered to hire the existing employees of the system provided they followed their hiring practices. Aqua also provided an alternate bid of \$17 million with a deferred payment plan with \$7 million due at closing followed by two \$5 million payments on the second and third anniversary of closing. They also offered in this proposal to extend the rate freeze from one to two years. Mr. Woods stated they have subsequently found out that Aqua is very interested in hiring the employees if the sale is approved because those employees would have knowledge about the operation of the system.

Mr. Woods stated they compared the bids to the twenty-eight sewer system sales that occurred in Pennsylvania between 2000 and 2007. He stated the average price paid per customer was \$1,125 within a range of \$0, which was a system that was in trouble with DEP and agreed to turn over ownership of the system to another entity to avoid fines, to \$3,472.00 per customer which was a small, developer system which was immediately turned over to another entity to operate when it went in service. Mr. Woods stated they also looked only at sales which occurred in 2006 and 2007 and the median price decreased. He stated the base bid for Aqua would be \$1,436 per customer and \$1,585 for the deferred payment bid and represents a comfortable margin above the median. He stated they also compared the offer to the actual net asset value of the system. He stated after allowing for accumulated depreciation of the assets, the net asset value is \$12.7 million compared against the two proposals from Aqua with the base bid at \$15.4 million and the alternate in terms of present value would be worth about \$15.8 million. He stated comparing the bids to the debt that exists on the sewer system, the base bid would

extinguish the debt of \$6.1 million and leave proceeds of \$9.3 million for the Township to apply for other purposes. In terms of present value, the alternate bid would produce net proceeds of slightly more than \$9.7 million.

Mr. Woods stated he next considered the impact on rates, and they considered a base line for rates that were proposed within the Township assuming they did not sell the system. He stated there would be a need to have a rate increase beginning January 1, 2009 and to continue thereafter with annual increases so that the Township could keep up with rising costs and put the system on a firm financial basis where it is not consuming cash, but instead maintains a cash balance about equal to 8% of total expenses for the system or approximately \$500,000 which would be a realistic cushion and allow the Township to respond to an emergency situation. He showed a slide showing the existing average sewer bill of approximately \$323 per year and following the rate increases through 2014, this would rise to \$481 per year which equals a 49% increase in rates. He stated he did a similar analysis with Aqua and their proposal. He showed a comparative chart showing the level of increases anticipated by Aqua. He stated Aqua would not get to decide the increase as they are a regulated entity; and if they want to increase rates, they have to go before the PUC and this process takes approximately nine months and is a fairly detailed process. He stated the Township would have standing in these proceedings. He stated Aqua would have no rate increase for two years from closing if they proceed with the deferred payment plan. He stated at that point the Township would have already had two increases if they were to keep the system. He stated by 2014, there would be approximately \$20 difference between what Aqua would charge and the Township would charge noting that these are only projections.

Mr. Woods stated there are timing considerations related to the offer Aqua has provided. He stated the assets of the system continue to depreciate, and the only way to avoid this would be for the Township to make some fairly significant investments in the system and this has not been embodied in the Township's plan as what has been provided for only covers routine and recurring construction and not anything major. He stated if the offer is accepted, the Township will avoid rate increases for the next two years adding that if the offer is not accepted, the financial condition of the system as it is would require rates being raised 1/1/09. Mr. Woods stated operating a wastewater system does bring with it some liability and transferring ownership would transfer the liability as well. Mr. Woods stated the offer will extinguish the debt and net the Township \$9.7 million net proceeds on a present value basis.

Mr. Woods stated after deliberating, if the Township decides to sell the system, they would next finalize an Agreement of Sale, obtain regulatory approvals from the PUC and the PA DEP, and proceed to closing. He stated the PUC will look at the financial aspects of the sale to make sure that it is in the best interest of the rate payers.

Mr. Smith stated if the system is sold, he is concerned with service since when the Township owned the system, they could count on them for service. He asked about Aqua's service record. Mr. Woods stated they have an excellent service record. He stated they are a local company and have their headquarters in Bryn Mawr. He stated they would be under the same regulatory pressures on the environmental side that the Township is, and they have an incentive to correct problems. He stated they also have an economic incentive to reinvest in the system as this is how they make their money.

Mr. Smith asked why there were only two bids, when they started with eleven potential bidders. Mr. Woods stated all the bidders had to decide if they could be competitive in this market and offer a reasonable bid and also had to consider the fit of the Lower Makefield system with their existing operations. He stated Aqua has operations throughout the area. One of the other bidders was in Canada although they do have an electric power plant in Trenton. He stated Middlesex does not operate in Pennsylvania and their closest wastewater operation is in Burlington County, New Jersey. Mr. Smith stated he understands Aqua has water systems in Bensalem Township and Bristol. Mr. Smith asked if they have done an analysis of rate increases in the Townships after Aqua purchased those systems. Mr. Woods stated this is covered in detail in the report. He stated with regard to the rates charged in Bensalem currently, they are about half of what the typical customer pays in Lower Makefield. He stated the system that was acquired in Bensalem was in trouble and rates were not sufficient to fund the ongoing operations; and while the rates did increase, even with the increases they are still at a rate that is quite low compared to other water utilities in the area. He stated in Bristol, DEP and the US EPA were seriously considering fines with respect to the water treatment plant. Aqua acquired the system and spent \$10 million to upgrade it, and they even won some environmental awards for the project. The rates that are being charged for that system now are approximately one-third less than the typical residential rate in Lower Makefield. Mr. Woods stated they have also looked at the sewer systems which were acquired by Aqua and the closest one to Lower Makefield would be Media Borough and this past year they had a rate increase of 12% which was the first rate increase they had since taking over the system six years earlier. He stated they seem to have a good track record and a willingness to make improvements and investments to the systems they acquire and seem to be judicious about the rate increases they apply for and get from the PUC.

Mr. Smith stated he was contacted by a resident who expressed concern with his double meter situation. Mr. Smith stated he understands there are approximately 400 to 500 residents in the Township who have this double meter situation, and he wants to make sure those homeowners are protected. Mr. Woods stated in the last several days he has been made aware of this, and he is looking into this with the Township staff and Aqua. He stated there are 491 residents who have availed themselves of this program. He stated for the last year 125 of those chose not to supply meter readings so they did not earn any credits in the program. He stated this leaves 366 active participants in the program.

He stated collectively they generated credits on their sewer bills of approximately \$57,000 or \$153 per residence. He stated they discussed the situation with Aqua and their approach is that this is part of the Township's tariff, and they have agreed not to change the tariff for two years. He stated they do have some concerns about the program that has been implemented which Mr. Woods shares as he does not feel this would be considered a "best practice" in the industry. Mr. Woods stated typically when customers have a high irrigation load, the approach to separating that from the sewer system is to obtain another service from the water utility which allows the water utility to install two meters, maintain them according to PUC standards, maintain the meter reading system to make sure that the records are accurate, and that which is used to generate the sewer bill is then based on a certified meter maintained according to PUC rules. He stated the concern Aqua expressed was that they are not sure how the PUC would look at the concept of a sewer bill being generated from a meter that the PUC knows is maintained properly according to their standards and a privately-owned meter which is not subjected to that same standard. He stated Aqua has committed to continue what the Township is doing for two years while they try to determine how to properly deal with this going forward.

Mr. Smith stated he is also concerned with the people who live in Edgewood Village who have come to the Township in the past expressing concern about their ability to hook into the system at a cost that would not be onerous. Mr. Smith stated he hopes there will be some protection for the people in that area if the Township decides to proceed with the sale. Mr. Woods stated he does not know the details of this situation. Mr. Fedorchak stated the issue is providing that area with sanitary sewer service as they do not currently have it. Mr. Smith stated the concern of the residents was that they would not be able to afford to hook up if there was a private entity as opposed to the Township which would have worked with them on this over a period of time. Mr. Fedorchak stated they would need to understand what Aqua's extension policies are, and Mr. Woods agreed noting he does not know enough about the specifics of this situation to comment.

Mr. Smith stated the Board of Supervisors should consider what they will do with the rest of the proceeds after they pay off the existing debt on the system. He stated he would like part of the money put in a "rainy day" fund and then use some of the funds for some of the Township's "big ticket" items such as traffic and a community/senior center and other facilities they have deferred proceeding with as there were not funds available.

Mr. Maloney stated it appears that the rates for a number of years out will be similar regardless of what action is taken and is largely driven by the fact that there is confidence in the PUC to regulate rates. He asked if the PUC process is completely public, and Mr. Woods stated it is. Mr. Maloney asked if there is a cap as to the amount of profits the entity can obtain, and Mr. Woods stated the model that is used is a "rate-based rate of return." He stated the PUC allows the company an opportunity to earn a rate of return on the investments it makes in the system and also to recover the expenses of operating it.

He stated they are allowed to have rates that recover the costs of day-to-day expenses, but there is no profit built into those expenses. He stated the way the company makes money is by investing in improvements to the system with new pump stations, pipelines, and other renovations to the facilities; and they are allowed to earn a rate of return to recover their cost of debt and the equity that is put into the system by the shareholders. He stated the review process before the PUC is expensive and time consuming. He stated this gives the company some discipline to avoid filing rates all the time. He stated when they approached Aqua and asked about rates in the future, they presented a rate increase in 2010 when the rate freeze is lifted and then not another rate increase until 2013.

Mr. Maloney stated the graph presented this evening shows that the rates would actually be lower if they proceed with Aqua and he assumes this is because they are able to have lower operating costs than does the Township. Mr. Woods stated private companies do have a reputation for operating more efficiently than public entities. He stated if a main needed to be repaired, the Township has strict public bidding laws they need to follow. He stated Aqua purchases these items all the time, has pre-qualified contractors they can go to quickly, and they are very efficient at this type of work.

Mr. Maloney asked about the employment process and asked if from past experience this would be a one or two year promise; and Mr. Woods stated this is not the case, and Aqua indicated they do want to hire the employees. He stated Aqua is a growing company looking for expertise. He stated the market for people who have knowledge in this area is very tight and it is difficult to find good employees. He feels this is a good opportunity for the employees involved.

Mr. Maloney asked if there is the potential that the treatment providers might negotiate lower rates with Aqua or will this expense remain the same. Mr. Woods stated many of these costs are governed by Contract; however, companies like Aqua focus on water and wastewater utility operations as their day-to-day business so they are aware of the costs. He has seen the purchasers of a service being very aggressive making sure that the costs they are incurring are properly maintained. He stated they also have an incentive through the regulatory environment to look over the shoulders of the treatment entities they deal with to make sure the costs are properly controlled.

Mr. Maloney stated there has been some discussion as to the condition of the system noting a significant amount of debt was recently incurred because of unexpected costs which was an early motivator for the Board to consider the sale of the system.

Mr. Maloney stated there are some portions of the Township where the system is only ten to fifteen years old and is in good shape. He asked the extent of the sewer system that would be prone to unexpected capital improvement needs. Mr. Woods stated some elements of the system are forty years old and older which is old for a sewer system. He stated most of the assets are buried and subject to freeze/thaw and they transport a fluid that is aggressive. He stated there are newer elements of the system which are built with

more resilient materials and will last quite a bit longer. He stated whoever owns the system has an obligation to manage the assets properly and do what is necessary to try to extend the service life as much as possible.

Mr. Maloney stated his career is about managing risk, and he feels the Township is not an entity that is in the business of providing sewer systems to large organizations and this presents a lot of exposure in terms of risk as a percentage of the entire tax base of the Township. He is pleased with the deferred payment program and feels the Board should have a specific plan for the money. He agrees that the Township should pay off the debt but does not feel this should become a fund for “pet projects.” He stated he would encourage comments from the community.

Mr. Caiola stated a number of his questions were answered in prior presentations. He asked how many years Aqua has been in business; and Mr. Woods stated Aqua and their predecessors have been in the business for 120 years. He stated they were previously known as Philadelphia Suburban Water Company. Mr. Caiola asked Mr. Woods how many years he has been in this business, and Mr. Woods stated he has been in the business for thirty years.

Mr. Santarsiero stated he has seen the presentation twice before and has asked most of his questions already. He asked how long the offer will be on the table, and Mr. Woods stated they asked all bidders to hold their bid for 120 days from the bid date which was January 10 so he feels the bid is good until May 9. Mr. Santarsiero noted the graph showing revenue/expenses over the last seven to eight years. He stated this past year expenses exceeded revenues and a few years prior revenues slightly exceeded expenses. Mr. Santarsiero stated he feels those years were years when there were fairly hefty rate increases, and Mr. Woods agreed. Mr. Santarsiero stated it appears that the Township could have a positive cash flow in the system if they were to continue to assess fairly significant increases going forward, and Mr. Woods agreed. Mr. Santarsiero stated any money generated from the sewer system has to stay within the sewer system, and Mr. Fedorchak agreed. Mr. Stainthorpe stated there is a small part that can go for overhead, but the majority must stay in the system. Mr. Santarsiero stated if the Board were to decide to sell the system, they would first have to present a plan to the public as to what they would do with the proceeds. He stated he feels they should first stabilize the tax base in the Township and put the bulk of the money in a fund that would earn interest income to help stabilize the finances.

Mr. Santarsiero stated when this presentation was made to the Park & Recreation Board last evening, the issue was raised that if the Township continued to own the system and they had to make major capital improvements as they have in the past, the Township would have to go through the process to bid out the work and hire a contractor which is time consuming. He noted the situation where there was a dispute with a contractor when the Township wished to proceed with another contractor as they did not feel the low



bidder was qualified. The contractor took the Township to Court, and the Township ultimately lost the case; and this lengthened the period when the work could be done which raised concerns that the line could have failed which would have increased costs considerably. Mr. Santarsiero asked if a private company could deal with these situations more expeditiously, and Mr. Woods stated this is true as a private company like Aqua is not bound by public bidding laws as the Township is, and they are permitted to pre-qualify bidders and they have contractors they typically work with, if they are not using their own staff, and typically they have a long work history with these contractors.

Mr. Stainthorpe asked Mr. Truelove if he is free to participate in this matter since the Bucks County Water and Sewer Authority did not participate, and Mr. Truelove stated this is correct. Mr. Stainthorpe asked how Mr. Woods determined the \$10 million depreciation calculation which he feels is a lot; and Mr. Woods stated this number was calculated by the Township Auditors and is the accumulated depreciation over the life of the system. He stated annual depreciation is approximately \$500,000 to \$750,000. Mr. Stainthorpe asked if there is room for negotiation with Aqua and asked if it would be possible to get a three year rate freeze. Mr. Woods stated there is room for negotiation as there is not yet a signed Agreement of Sale. He stated he would suggest that the Township stay somewhere close to what was in the draft Agreement of Sale and not change it drastically. He stated the deferred payment offer that Aqua has presented is not something that will be found in the draft Agreement of Sale as it is something that Aqua came back with; and Mr. Woods feels it is in the Township's interest. Mr. Woods stated if he looked at the trade off between rates and purchase price there is a direct link; and if the Township asks Aqua to extend the rate freeze for a longer period of time, they would be making an investment for which they are not earning a rate of return on, and there would likely be trade offs between the proceeds from the sale and the rate freeze.

Mr. Caiola opened the matter up for public discussion noting that the matter will again be discussed on March 19 and it will be the sole matter on the Agenda.

Mr. Zachary Rubin, 1661 Covington Road, asked Mr. Stainthorpe why Bucks County Water and Sewer Authority did not bid on this. Mr. Stainthorpe stated this matter did not come before their Board as the professionals on staff felt that the way the process was structured, they could not possibly be the high bidder and be competitive. He stated they looked back at history where they had been successful in making purchases, and it was usually when there was more emphasis put on freezing rates going forward. Mr. Rubin asked Mr. Stainthorpe if he is compensated for being on the Authority, and Mr. Stainthorpe stated he receives \$50 a meeting and he attends two meetings a month. Mr. Rubin stated if Bucks County Water and Sewer Authority would purchase the Lower Makefield system, he assumes Mr. Stainthorpe would not personally benefit financially; and Mr. Stainthorpe stated this is correct. Mr. Rubin stated the Authority is a quasi-public Authority, and Mr. Stainthorpe stated it is a public authority and is the creation of the County. He stated once a Municipal Authority is created, they are permitted to do

business anywhere in the State of Pennsylvania and their activities are solely supported by rate payers and there are not tax dollars involved. Mr. Rubin stated he feels Mr. Stainthorpe has a fiduciary responsibility for the Bucks County Water Authority, to the ratepayers, and to the County to do what is in the best interest of that Board, and Mr. Stainthorpe agreed. Mr. Rubin stated Lower Makefield has an asset that is worth to one bidder \$17 million, and he asked why Mr. Stainthorpe was not an advocate for the acquisition of the system for the good of Bucks County since this is a valuable asset and it would be a win/win situation for the ratepayers of Bucks County and the County to acquire this system. He stated he also feels Mr. Stainthorpe should be an advocate for the citizens of Lower Makefield since some people feel selling to a non-profit entity would be in their best interest in the long run. Mr. Stainthorpe stated the answer to this goes back to the Township solicitor and to the prior discussions they had that even though it would not be a personal financial conflict, he could not advocate for Bucks County Sewer and Water Authority any more than he could for Lower Makefield. He stated he is following the law. Mr. Rubin stated he feels Mr. Stainthorpe should be involved in the best interest of Bucks County of which Lower Makefield is a part. He stated he does not feel Mr. Stainthorpe should be recused and feels they should re-address the advice of the Solicitor in this matter. Mr. Truelove stated no member of the Lower Makefield Board of Supervisors could be a voting member of the purchasing entity and the selling entity at the same time. Mr. Rubin stated he is asking Mr. Stainthorpe to be an advocate.

Mr. Gary Cruzan stated he is an investment broker and a finance specialist. He stated what they have heard this evening is a great sales pitch but made him feel like Mr. Woods was working for Aqua America as opposed to the Township. He stated in May of 2007 there was an article in Business Week about selling turnpikes, bridges, and sewer systems; and the conclusion was these are great deals for buyers but not great deals for sellers. He stated he does not feel the rates will be regulated by the PUC. He stated these people are experts at finance and manipulating costs, and they will get the cost increase. He does not feel they are buying this system out of the goodness of their heart as it is a business. He stated the Pennsylvania American Water Company is now owned by a German company, and he feels they are now making good money as the rates are up. He stated if you compare Pennsylvania American Water rates with the Morrisville Water Company there is a significant difference. He stated there is no control so he completely rejects that the rate increases will be fixed any time. Mr. Cruzan stated the Township is going to need sewer for the next hundreds of years, and no matter what money the Township gets now, it is nothing over time. He stated the Township can borrow all the money they need on tax-exempt rates so their financing is cheaper. He stated the reason there were not a lot of bidders was because the financial markets are in chaos. He stated he feels the price is cheap because there is no competition.

Mr. Cruzan asked who will decide if the sewer system will be sold. He stated he feels they are presuming that the Board of Supervisors gets to decide this; but he does not feel when people are elected to the Board of Supervisors that they had in consideration the

sale of the sewer system. He stated the sewer system went out to bid in August but was not an issue during the Election, and he feels it should have been. He stated the people pay the bills, but the Board is making a decision that will effect them. He stated the Board is delegating the right to tax to a private entity, which he does not feel should be done. He stated while he is aware that systems have been sold, he does not know if it has ever been challenged at the Supreme Court level. He stated the purpose of Government is to provide facilities and services that individuals cannot buy for themselves from someone else. He stated unless they are going to change their Charter, he feels the Board needs to consider whether they can make this decision. He stated he does not feel anyone elected the Board with the idea of selling the sewer system as this is not normal Governmental business. He stated he has been approached by someone who is very wealthy who would like to challenge this.

Mr. Cruzan stated it was noted earlier that it is not possible to take the money from the sewer system but he stated last summer he was approached by someone who worked for the Sewer Department for decades who indicated money was drained off from the sewer system to balance the Budget in lieu of tax increases. Mr. Cruzan stated while he has this in writing, he has not disclosed that person's name. He stated that individual has volunteered to testify in Court. Mr. Cruzan stated he feels the money from the sewer system should have been used to maintain the system so that the Township would not be facing multi-million dollar repairs. He stated they should ask why the people who were in charge of the sewer system were not maintaining it and "blowing the whistle" when it was not maintained.

Mr. Dave Miller, 1648 Yardley-Langhorne Road, stated his property is in Edgewood Village and he does not have public water or sewer to his house. He stated his concern is that if the system is sold, it would be very difficult and very expensive for people like himself who do not have the hook ups to be able to do it in the future. He stated there are also some undeveloped pockets in the Township and they will be left with no way to do it without the help of local Government. Mr. Miller stated he would propose that part of the bid specifications include the fact that the ultimate buyer would have to run sewer and water lines through Edgewood Village and to any of the other areas that do not have sewers throughout the Township. He stated he does not feel he should have to pay a hook up charge because he will have to pay for the laterals and re-plumb the house to accommodate the laterals, and this will be very expensive. He stated once they are hooked up, they will also have the expense of abandoning their cesspools and wells. He stated the purchaser of the sewer system should be allowed to charge developers the hook up fee since the developer can pass it on to the potential buyers. Mr. Miller stated he currently spends more than \$480 to empty his cesspool one time. He also noted the equipment that he has to maintain and testing he is required to do which is also expensive. Mr. Miller stated the Township had a consultant come in several years ago who found that the water quality and cesspools in Edgewood Village were not acceptable.

Mr. Jerome Kucher, 2020 Silverwood Drive, stated he has a dual meter system. He stated Mr. Woods indicated that the average credit people received was \$153, but he stated his credit was \$620. He stated he lives in Dolington Estates where most of the homes are on one acre lots and those that irrigate have credits similar to his. He stated he has had credits from \$400 to \$1,200 over the years. He stated when Toll Bros. built his house, the two meters were inspected by the Township. He stated the meter reading is done through an external jack on the outside of the house. He stated he does not understand what the difference between public and private maintenance would be. He stated if they decide to sell the system there should be a provision for his type of system. He stated the bulk of the water he uses does not go into the sewer system, and he does not feel he should be charged for this. He stated 80% of the water he uses does not go into the sewer system.

Mr. Woods stated the concern expressed by Aqua was with regard to the PUC and how they would approach the tariff design. He stated Aqua has indicated that for two years they will maintain the same procedure the Township has in place, and this will give them time to consider how to work around the PUC.

Mr. Sam Conti stated with regard to the increase in rates for the Bensalem system, there was a letter to the Editor in the Bucks County Courier Times dated 1/6/08 in which the writer indicated their rates when up 74% since it was sold to Aqua. Mr. Conti stated Aqua America is the former Philadelphia Suburban Corporation and is the largest publicly-traded water utility in the United States with total revenues for 2006 of \$534 million and has 1600 employees. He stated Aqua Pennsylvania had revenues of \$276 million and has 628 employees. He stated the net income for Aqua America in 2006 was \$92 million so they earned 17%. He stated they have long term debt of \$952 million. He stated they have a tremendous corporate bureaucracy and he reviewed the number of officers and departments along with a Board of Directors which results in high salaries and administrative costs. He stated the Township will be faced with rates that are based on satisfying these people. He stated he did an analysis assuming that Aqua America paid the Township \$17 million; and assuming they borrow the money and recoup the money over a ten year period, they would have to charge the sewer ratepayers of Lower Makefield \$22 million for the amortization of the loan which represents a rate increase of 57% just on the amortization alone. He stated this will go into the \$900 million loan that is already outstanding. He stated this company will have complete control of what the ratepayers will have to pay. He urged the Board of Supervisors not to sell the system based on the mathematics he has presented.

Mr. Greg Mauro, 915 Princess Drive, stated he is encouraged that the Board is looking at plans to stabilize the Township finances. Mr. Mauro asked Mr. Woods if other Bucks County communities own their own sewer systems, and Mr. Woods stated some own their own system, some are owned by Bucks County Water and Sewer Authority, and some are owned by private companies like Aqua. Mr. Mauro asked if the Township is

controlled by the PUC with regard to rates, and Mr. Woods stated they are not. Mr. Mauro stated if the Township owned the system and there was a catastrophic event, he assumes the Township would have to borrow the money, and the ratepayers would have to pay for it; and Mr. Woods agreed. Mr. Woods stated if Aqua owned it, they would have to repair it, and if it were a major capital expense, they would have the opportunity to include this cost when they went before the PUC for a rate increase. Mr. Mauro stated he feels the report was well thought out and well timed from a risk management standpoint. Mr. Mauro encouraged the Board to move forward with stabilization of the Township finances.

Mr. Smith asked if the sewer interceptor project would be considered a catastrophic event, and Mr. Fedorchak stated it was a major capital project that was not anticipated. Mr. Fedorchak stated the project cost between \$5 million and \$6 million and was for 14,000 linear feet.

Mr. Ethan Shiller, 367 Lang Court, stated he is a member of the Citizens Budget Committee where they saw this presentation and had the opportunity to ask questions and do some financial analysis. He stated he understands that the 14,000 linear feet of piping that was replaced represents approximately 10% of the 155 miles that are owned by the Township. He asked about a risk analysis for the rest of the system based on the age of the system and the likelihood that this could occur again which would result in another \$6 million bond issue that could increase the rates again. Mr. Woods stated they did not have the opportunity to do that level of engineering evaluation, although it could be done. He stated they could look at failure rates that have existed in the system and use that to predict the future of the system. He stated these systems do not last forever, and components do have to be replaced. Mr. Woods stated there are entities of the system which are forty years old and older.

Mr. Shiller asked if Aqua indicated that they saw the need for any immediate improvements that they were willing to invest in as part of their investment before something happens based on their inspection of the system. Mr. Woods stated he did not look at a preliminary list they may have developed, but the business model they operate under encourages them to make investments in the system as this is how they make their money. He stated Aqua's water and sewer operations show a steady level of ongoing investment. Mr. Shiller asked if the Township could get an up front plan from Aqua, and Mr. Woods stated they could ask them for this although at this stage, he does not feel they have developed any kind of detailed engineering for the system. He stated he feels they will look at the system very early on assuming they acquire it.

Mr. Shiller suggested the Board of Supervisors get a third party to do a risk analysis to advise the Township if there is the potential for another \$6 million bond. He stated the Citizens Budget Committee feels they should understand where the proceeds would go, and would like to have this information before they make their decision as to whether or not they support the sale of the sewer system.

Mr. Smith stated approximately one year ago there were initial discussions about the possible sale of the sewer system, and he asked Mr. Hoffmeister, who had been the Sewer Administrator, if his opinion has changed since that time. Mr. Hoffmeister stated from a business perspective for the benefit of Lower Makefield he does not know that the Board has an option. He stated \$6 million is nothing compared to what the Township could potentially spend on the system. He stated the Buck Creek Line services approximately 1100 units in the north end of the Township and it runs through a swamp with lateral connections into it. He stated whether they rip it out or reline it, it would be expensive. He stated the Township is also constrained by the Commonwealth rules as to bidding. He stated the Township has an aged infrastructure. He stated there have been comments made that people have benefited because Lower Makefield Township Boards of Supervisors in the past approved Ordinances to benefit the residents. He noted Mr. Kucher's comments about his savings of \$600 per year, and Mr. Hoffmeister stated this would not have been afforded to him if he had lived in any of the surrounding Townships.. He stated there were also comments about support for the homeowners with regard to connection fees; and he stated Boards in the past have supported their residents who were in existing developments who did not have sewers. He stated there has been some draw down in cash because Boards in the Township supported their residents. He stated the current Board has an opportunity to do the same thing for the residents from a business perspective.

Mr. Santarsiero stated last evening the Park & Recreation Board unanimously voted to recommend to the Board of Supervisors that they accept the sale pursuant to the deferred payment option that Aqua has given.

A short recess was taken at this time. The Board reconvened the meeting at 10:00 p.m.

**APPROVAL OF RESOLUTION NO. 2159 SUPPORTING A BICYCLE AND PEDESTRIAN PATHWAY ON THE SCUDDER FALLS BRIDGE AND INSTALLATION OF SOUND BARRIERS ALONG ROUTE I-95 BORDERING RESIDENTIAL PROPERTIES**

Mr. Truelove stated they were presented with a Resolution that was passed by the Ewing Township Council, and the Resolution to be considered this evening is essentially identical with modifications consistent with Lower Makefield's form of Government. Mr. Truelove read the Resolution into the record.

Mr. Santarsiero moved to approve Resolution No. 2159 with a change to the second paragraph on Page 2, last line to read, "the Scudder's Falls Bridge and the construction of sound barriers covering all effected neighborhoods on Route I-95."

Mr. Smith seconded. Mr. Truelove agreed to make the change.

Mr. Zachary Rubin stated he is opposed to the Resolution because when the Delaware River Joint Toll Bridge Commission made their presentation and discussed the pedestrian/bicycle addendum to the bridge it was a disproportionate amount of money as they indicated it would be a couple million dollars. He stated when they were asked how much it would cost to install sound barriers, the Commission representatives indicated it would be \$1 million a mile. Mr. Rubin stated if it will be either the pedestrian/ bicycle path or the sound barriers, he feels they should oppose the bikepath and have them take the money and build the sound barriers in the neighborhoods. He stated the sound barriers should be a priority. Mr. Santarsiero stated while he does not disagree, this is a only Resolution and there is still work to be done with the decision makers to get them to make these changes. He stated the Township is in the process of doing this and has been for some time. He stated he does not feel there is a problem with asking for everything they would like in the Resolution and then going through the process.

Ms. Virginia Torbert, Citizens Traffic Commission, commended the Board for the Resolution. She stated the Commission sent the Board of Supervisors a letter asking the Board to support both the path across the Bridge and the noise barriers. She stated in keeping with the environmental theme, they feel the provision for a bikepath is very important. She stated residents at the Commission meetings and in the surveys have requested more bikepaths and pedestrians paths.

Ms. Colleen Klock, 1296 Jacob Drive, thanked the Board for considering this Resolution. She stated she wants to make sure that the Board understands the residents of the community are very dissatisfied with the Delaware River Joint Toll Bridge Commission's apathy with regard to installation of the sound barriers along the entire project and their inability to answer any letters or inquiries from the residents. She stated the Regional Citizens Committee and the Citizens' Advisory Sub-Committee of the Delaware Valley Regional Planning Commission is behind the residents. She asked what approval of the Resolution will mean for the residents. Mr. Caiola stated he and Mr. Santarsiero are reaching out to those involved that the citizens are very concerned about this. He stated he is aware that people in New Jersey are also concerned that they are not being heard. He stated it is important for the residents to keep involved as well.

Mr. Santarsiero stated the Township recognizes that they need to be working with the decision makers and not just the engineers. He stated in 2005 when the decision was made to replace the Bridge and widen I-95, he attended a meeting at Pennwood and everyone expressed concern with noise. He stated the Board of Supervisors has fought to get the Bridge Commission to acknowledge the need for sound barriers. He stated when he met with Governor Rendell in November, 2006 on another matter, he brought this issue up as well; and the Governor indicated he would follow up on this. Mr. Santarsiero stated approximately one year ago, representatives for the Bridge Commission came before the Board and indicated they would install some sound barriers although they were not willing to install them in every neighborhood. He stated the Township now needs to

get them to put all the sound barriers up which the Township feels are necessary, and the Township is working on this. Mr. Santarsiero stated he has contacted Congressman Murphy's office to enlist his help as well. Mr. Santarsiero stated he feels they all need to put pressure on the Bridge Commission; and the next time there is a public meeting, people must come out in force both from Lower Makefield and Ewing Townships. He stated while \$1 million is a lot of money, it is not a significant amount given the cost of the entire project.

Mr. Smith asked if they should get a representative from the Bridge Commission to come to another public meeting. Mr. Stainthorpe stated he feels they would only send in their engineers again, and he feels the Township needs to start establishing a presence at the Bridge Commission meetings. Mr. Stainthorpe stated it is especially important to get the public involved. Mr. Fedorchak stated he did speak to the Bridge project engineer who has advised that there will be two public hearings held in May, one in New Jersey and one in Lower Makefield Township. Ms. Klock stated the project engineer is the individual who has been ignoring the residents. She stated PennDOT has also tried to contact that individual to insure that they are being represented correctly when he answers her questions. Mr. Santarsiero stated he feels it is worth the effort to try to get actual members of the Bridge Commission to attend as opposed to just the project engineer as they have had these types of meetings in the past; and while they are informative, the Township needs to get to the decision makers. He stated in tandem with this Lower Makefield representatives should be attending the Bridge Commission meetings as well. Mr. Smith asked if they could have a joint Resolution with Ewing Township. Mr. Caiola stated the Resolution under consideration mimics the Ewing Council Resolution. He stated he feels when there is a meeting in New Jersey, Pennsylvania representatives should attend those meetings and New Jersey representatives should attend the Pennsylvania meetings.

Ms. Torbert stated she feels it would be more effective if there was a delegation from the Township attending one of the Bridge Commission meetings. She stated they do meet in the morning which makes it difficult. She stated she would be willing to attend with other Traffic Commission members, a Supervisor, and possibly Mr. Fedorchak. Ms. Torbert asked if the Bridge Commission indicated what the next public Hearing would be about as on the Bridge Commission Website they list that the letters of interest and requests for proposals for the final design will be put up the second quarter of 2008. Mr. Fedorchak stated he understands at the Public meeting they will be reviewing the details on the environmental assessment they are required by law to have performed. Mr. Fedorchak stated he was advised they will begin the final design late 2008.

Mr. Larry Nicole, 18 Upton Lane, stated he has lived in the Township for thirty years, and the noise from I-95 has gotten progressively worse. He understands that the barriers are only going up to a certain spot, and he will not have them. He stated he now



understands that the Board of Supervisors does not make these decisions, but this is impacting his quality of life. He stated he hopes the Township Supervisors will help insure that the right thing is done.

Ms. Karen Borak-Lefka, 51 Highland Drive, stated her house is two streets away; and when the leaves are down, she can hear sounds from the highway and supports the sound barriers. She stated there will be increased air pollution from this project and she asked if there is a way to incorporate green space as well as the sound barrier walls. Mr. Santarsiero stated it has been indicated that when they widen the road, it will be on the inside so they do not have to make the footprint of the road wider, although this has not been decided definitely and is part of the final design. Ms. Borak-Lefka stated if they installed conifers it would help purify the air. Mr. Santarsiero stated he feels they should focus on the barriers first and they can then discuss the feasibility of plantings. Mr. Maloney stated it does raise the point that a concrete view is not much better than a highway. Ms. Borak-Lefka asked if the bikepath will connect with anything, and Mr. Maloney stated it should connect to the towpaths although they would need a ramp.

Mr. Pat Harlow, 1389 Brentwood Road, stated he wanted to express his concerns about this issue adding there has been some apathy in the community.

Mr. Seymour Nowicki, 1369 Brentwood Road, stated his house is not right on the road but this time of year he can hear the sound of the trucks and he can see the signs and traffic on the other side of I-95. He stated if they do not get a concrete wall, they may want to consider some form of growth that does not go bare in the winter.

Mr. Maloney noted there are other residents present this evening who, while they have not spoken, are also concerned about this issue.

Mr. Caiola stated there is a need for everyone to stay involved and that the residents get out the information to their neighbors, and the Board of Supervisors will help as well.

Motion to approve Resolution carried unanimously.

Mr. Truelove agreed to amend the Resolution as noted and e-mail it to Mr. Fedorchak tomorrow so it can be signed before the next meeting and sent out to the appropriate representatives

#### PRESENTATION AND APPROVAL OF IMPROVEMENTS TO THE COMMUNITY POOL

Ms. Donna Liney, Recreation Director, was present with Ted Wallover, Wallover and Associates. Mr. Wallover stated the Pool facility has been in place for over thirty years

and has been a great success for the Township and members of the Pool. He stated about one year ago they conducted a Needs Assessment Survey and found there were several areas that needed to be addressed which the membership felt was important to the continued success of the Pool. He stated they are finding in the aquatic industry that there is a trend toward swimming lessons, programming, special events, and opportunities to increase member interest and use of the facility. He stated while this is a membership-driven facility, they are opportunities to generate revenues that can help maintain the facility over the life of the structures. He stated expanding warm water techniques and teaching opportunities provides the opportunity to improve the overall use of the facility. He stated there is increased interest in learn-to-swim programs and exercise programs.

Mr. Wallover showed a slide of some of the features that will be involved in the facility including the ADA ramp noting that ADA access to the facility is an important component of the project as well as the ability to have teaching components at the facility. Mr. Wallover stated they wanted to increase opportunities for inter-generational and family activities at the Pool. He stated the needs of the family are being somewhat suppressed because those components where families are using the pool are aging. He stated they want to maintain the membership and keep them active components at the facility. Mr. Wallover stated they are promoting learn-to-swim programs, adaptive aquatics for the elderly and general membership, warm water recreational leisure use, increasing the water surface area of the intermediate pool by 40%, and use of a new lining system which will enable it to have a fifteen year warranty. Mr. Wallover stated the design will also improve parking access into the facility for families. Mr. Wallover stated warm water temperatures promote exercise and leisure activities. He stated for the new facilities, they will have water temperatures in the mid to high eighties.

Mr. Wallover showed a Plan of the area where there will be development. He stated they are improving the southeast corner of the facility with a new dining area, a new and updated pavilion structure, new tot pool structure which will completely replace the existing facilities and will have inter-active play areas, improvements to the intermediate pool which will be extended on both sides and include installation of an ADA access ramp and a series of benches and training and teaching stations within the pool for teaching, exercise, and leisure. Mr. Wallover stated they also propose a new filter building and new entranceway from the parking lot to the east. They feel providing direct access to the family activity zones is important. He stated by installing a new filtration building, they will be able to clear up space in the existing filter building and provide for a better flow and function of the filtration equipment.

Mr. Wallover showed the Plan for the teaching/leisure pool which will increase the size of the pool and include installation of shade structures directly adjacent to the pool. A Plan for the tot pool was also shown and includes shade structures, beach access, and provides complete unobstructed vision from the Pool Manager's office.

Mr. Wallover showed an illustration of some of the interactive features that will be used. He stated they are using Myrtha Pool Technology which is a steel panel with a bonded vinyl skin which provides a fifteen-year warranty from the date of completion as opposed to the normal one-year warranty when using other materials. He stated this system provides a surface that is not prone to water chemistry issues. He stated with this system they can use both new construction techniques and renovation techniques. He showed a picture of the procedure which is a panel system that is bolted to the existing wall structure; and where they are taking away the end walls for the expansion, they will use a buttressing system to blend the facility so it is a new pool construction when complete.

Mr. Wallover stated the cost for the project is approximately is \$1,854 million and they are recommending a contingency of 10%. Mr. Stainthorpe asked if the money is available, and Ms. Liney stated they do not have \$2 million. Mr. Fedorchak stated they have \$400,000 to \$500,000. Mr. Stainthorpe asked how they will finance the project, and Ms. Liney stated the recommendation is that there would be a bond, and the Pool would pay the bond back so there would be no tax dollars going to the Pool. Mr. Santarsiero stated they do envision that there would be a need to increase fees for 2009. He stated the construction would begin when the Pool closes in September, 2008; and by the beginning of the 2009 Season, it would be ready for use. Mr. Wallover stated they propose the project to be bid early in July, construction to begin early September, substantial completion by May 1, with final completion prior to Memorial Day. Mr. Santarsiero stated in order to finance the bond issue, they would have to increase the membership fees which has not been done in approximately twelve years.

Mr. Smith asked if this project was covered in the survey approximately two years ago; and Ms. Liney stated they did have a survey, and the members indicated that these were features that they would like to see. Mr. Smith stated this will also bring them into ADA compliance.

Mr. Maloney asked the proposed fee increase, and Ms. Liney stated Park & Recreation considered a \$20 to \$40 increase to cover the bond. Mr. Maloney stated this would represent a 5% to 10% increase in fees, and Ms. Liney agreed.

Mr. Santarsiero stated he has served as liaison to the Park & Recreation Board for over a year and was at the first presentation when this was considered last summer. He stated he was one of the advocates for widening the intermediate pool as his family uses that pool and it does get very crowded. He stated increasing the size of this pool by 40% will be very welcome by the membership. He stated the tot pool has been in need of major renovations for some time. He stated the topography will change so that everything will basically be on the same level which will make it easier for the staff to oversee the facility. Mr. Santarsiero stated given that there has not been a fee increase in a long time, it will not be a significant increase, and those who use the Pool will see real tangible results. He feels most of the members will be in support of this proposal.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the Plan as set forth this evening by Wallover Architects.

#### APPROVE EXTENSION OF CONCESSION STAND CONTRACT

Mr. Stainthorpe moved, Mr. Santarsiero seconded and it was unanimously carried to extend the Concession Stand Contract with M.L.E. Enterprises for one year in the amount of \$3,300.

#### ACKNOWLEDGE REQUEST BY THE SNIPES FAMILY TO HAVE TAX PARCEL NOS. 13-028030 AND 13-028031 INCLUDED IN THE AGRICULTURAL SECURITY DISTRICT

Mr. Truelove stated Falls Township does not have an Agricultural Security District, and Lower Makefield Township is the closest Municipality that could afford this opportunity to the Snipes family. Mr. Stainthorpe asked if this is legal and asked if it would not have to be contiguous to other farm properties. Mr. Truelove stated it is his understanding that it does not have to be contiguous. Mr. Fedorchak stated there is ample precedent for this; and over the past several years several farmland parcels located in Middletown, Upper Makefield, and Newtown Township have all piggybacked on Lower Makefield's Agricultural Security District.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to acknowledge receipt of the Snipes proposal, authorizing advertisement of the public notice, and posting the site.

Mr. Fedorchak stated the next step is that this proposal will go before the Planning Commission, the Bucks County Planning Commission, and the Agricultural Advisory Committee. There will be a period of forty-five days to provide the Board of Supervisors with a written recommendation; and upon receipt of the recommendation, the Public Hearing will be conducted. Mr. Santarsiero stated they must convene a meeting of the Agricultural Advisory Committee, and Mr. Fedorchak agreed to have his Secretary coordinate this. Mr. Snipes stated if there is a need for photos, maps, or visits to the property, they would be happy to do this. He thanked the Township for their consideration. Mr. Santarsiero stated they will advise Mr. Snipes when the Advisory Committee meeting takes place so he can attend to answer any questions. Mr. Fedorchak stated they will need help posting the site, and Mr. Snipes agreed to this.

DISCUSSION AND APPROVAL OF WAIVER OF LAND DEVELOPMENT IN CONJUNCTION WITH PENNSBURY SCHOOL DISTRICT'S PROPOSED ADDITION OF A SCHOOL BUS DRIVEWAY AT THE WILLIAM PENN MIDDLE SCHOOL

Mr. Gillette, Director of Facilities and Physical Plans for the Pennsbury School District was present. Mr. Gillette stated he was previously present to discuss this matter with the Board of Supervisors. He stated they want to add a second driveway at William Penn. He stated currently there is only one entrance; and when the busses come in, they have to go around the building and go back out which results in extensive confusion. They would like to add a second entrance which would allow buses which are leaving the area to do so without going around the building. He stated other buses which would need to go to Pennwood and Charles Boehm would continue to go out the back access road.

Mr. Caiola asked if the access area being shown is the site which the Board previously recommended, and Mr. Gillette agreed it is. Mr. Santarsiero stated the Citizens Traffic Commission has looked at this and recommended approval as has Mr. Majewski.

Mr. Santarsiero moved and Mr. Maloney seconded to grant the Waiver.

Ms. Virginia Torbert stated at the Citizens Traffic Commission meeting they had requested that the residents of Roelofs Court be advised of this because the new entrance will be close to the entrance to Roelofs Court. Mr. Gillette stated this has not been done, but they will do so.

Motion carried unanimously.

APPROVAL OF EXTENSIONS FOR CRICKET COMMUNICATIONS, INC., CAPSTONE TERRACE, HARMONY LANE, FLORAL VALE, AND SANDRA MIDDLEMISS

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to approve the following Extensions:

Cricket Communications, Inc.	– 4/10/08
Capstone Terrace Preliminary Plan	– 5/22/08
Harmony Lane Preliminary Plan	– 6/7/08
Floral Vale Revised/Amended Final Plan	– 5/22/08
Sandra Middlemiss Preliminary Plan	– 6/21/08

### ZONING HEARING BOARD MATTERS

With regard to the Senior Living, L.P., Stony Hill and Heacock Roads, Variance request to permit a second sign, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the David Ervin, Clifton Homes, Inc. for the property at 1318 Knox Drive, Variance requests to construct an addition resulting in greater than permitted impervious surface and encroachment into the rear yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

### AUTHORIZE ADVERTISEMENT OF ORDINANCE NO. 374 – MUNICIPAL WASTE COLLECTION AND TRANSPORTATION ORDINANCE, AND ORDINANCE NO. 375 – AMENDING THE TOWNSHIP CODE RELATING TO THE RECYCLING OF SOLID WASTE

Mr. Truelove stated these Ordinances both deal with recycling issues and stem from new State laws mandated to the Counties and the Municipalities regarding updates and definitions.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to authorize Advertisement of Ordinance No. 374 and Ordinance 375.

### AWARD CONTRACT FOR BARRIER-FREE ENTRYWAYS FOR TOWNSHIP BUILDING

Mr. Fedorchak stated at the recommendation of the Disabled Persons Advisory Board, the Township bid out the installation of new barrier-free entrance doors to the Township Building at two locations – one at the main entrance and the second at the Tax Office. Architects were hired to prepare the bid specs and the project was let out to bid. They received a proposal from one company and the staff and Disabled Persons Advisory Board recommend award of the contract to that bidder.

Mr. Santarsiero moved to award the bid to Building Craft Associates for a total amount of \$36,250.00

Mr. Stainthorpe asked for details of the project, and Mr. Fedorchak stated they will have new doors driven by an electrical operator which means an individual would hit a push paddle to open the door and the amount of time that the door opens and retracts is ADA compliant. Mr. Smith asked about installation time; and Mr. Fedorchak stated they anticipate they will begin sometime in June or July, and it is anticipated the project will take six weeks.

Mr. Maloney seconded the Motion.

Ms. Virginia Torbert asked if these doors come with any kind of guarantee as she is familiar with these doors used at other locations and they often do not work after time. Mr. Fedorchak stated they will get a one-year Warranty. Mr. Fedorchak stated after a year they could enter into a Maintenance Contract for a period of time, although he is not sure what this would cost.

Motion carried unanimously.

#### SUPERVISORS' REPORTS

Mr. Smith stated the Special Events Committee is working on the spring event, Community Pride Day, and the Veterans' Day event.

Mr. Caiola stated the Environmental Advisory Council met and discussed the upcoming Global Warming Conference and green building. He stated the Bucks County Performing Arts Council will hold an event this Saturday at 7:00 p.m. at the Yardley Borough Community Center.

Mr. Santarsiero stated the Park & Recreation Board discussed the need to repair lights at Community Park at the tennis courts, the basketball courts, and the softball fields. He asked that this matter be put on the Agenda for the first meeting in March.

#### GOLF COURSE DISCUSSION AND MOTION ON OUTINGS

Mr. Maloney stated there has been an on-going issue with regard to the variety of pricing schemes which have emerged for golf outings over time. He stated when the Course was first opened in 2004 the preeminent interest was in attracting business. He stated since that time, Course use has exceeded expectations, and as a result it has changed the strategy for pricing outings. He stated over time there have emerged a number of different agreements between the management company, the Golf Course Committee, and other organizations. He stated having done significant research on this, it appears that decisions have been made by a variety of parties rather than allowing Kemper to make their own pricing decisions. He stated in the best interest of the Course, he feels it would be best to move to a consistent pricing structure. He stated by allowing certain organizations to have special arrangements, the Board is not fulfilling their fiduciary responsibility to the \$16 million debt which has been incurred for the Golf Course. He stated the Golf Course is currently at the break even point, and he feels it would be in the best interest of the Township to allow Kemper to move to a more consistent pricing scheme. He stated Kemper is also going to try to move to an entirely in-house catering

situation since they now have purchased a significant amount of equipment and they feel that they can handle any groups' size and needs. He stated there would be special exceptions such as Kosher and other situations which must be considered. He stated they feel this is the best way to proceed to make sure that the Golf Course is as profitable as it can be.

Mr. Caiola stated he assumes some agreements have already been made for 2008, and Mr. Maloney stated he does not feel that what he is proposing is directing Kemper as to specifics; and he feels the Board can give Kemper guidance as to who they should be listening to and who should be involved in the decision-making process. He stated he would also like to make sure that whatever guidance is provided to Kemper, that Kemper understands that any agreements that have been reached do not need to be adjusted for the current year.

Mr. Maloney moved and Mr. Santarsiero seconded that Kemper Management and any future management company for the Golf Course have sole negotiating power for outings and that no other member of the Township government have the specific negotiating power on an individual basis, that all pricing for Golf Course outings be done on a consistent pricing basis, and that beginning January 1, 2009, consistent with Kemper's stated strategic plan, no external catering be permitted on site with the exception of special needs such as religious observances.

Mr. Caiola asked if Kemper wants this kind of autonomy, and Mr. Maloney stated the problem is that Kemper has been given directives by a variety of different parties over time with respect to the Township's Government and involves elected and non-elected individuals. He stated he would like to enable Kemper to have this authority since their job, according to their Contract, is to run the Golf Course and make these kinds of decisions autonomously.

Ms. Ellen Saracini stated the Garden of Reflection has held their Golf Outing at Makefield Highlands since 2004, and she feels a lot of this discussion came up because of the Garden of Reflection holding their Outing at the Golf Course. She stated she understands that a generalization is being made but she questions what will happen with the Garden's Golf Outing. Mr. Maloney stated it appears that while this was the situation which brought this problem to light, it appears that it is not just that instance; and what has been created is a situation that is not allowing Kemper to manage the Golf Course effectively. He stated he understands that the only way they can correct this is to be consistent. He stated in the beginning, it was critical to fill the Golf Course; but currently, even if there were not outings, the Course would still be full all the time. He stated they have outings because they are good for client relationships and because it enables the Course to have a little "breather" as there is less play on the Golf Course during an outing. He stated if Kemper wants to continue to "grandfather" something, that would be their decision; however, he believes what he is recommending is that they do



the pricing consistently. Mr. Maloney stated the Township's primary responsibility is to insure the financial stability of the Golf Course; and he feels that anything short of allowing Kemper to run the Course at market value all year hampers Kemper's ability to do so; and this is why he is suggesting they go to a single pricing basis.

Ms. Saracini stated they made a date more than a year ago for the Golf Outing to take place in 2008, and she asked if their Outing can continue this year. Mr. Caiola stated this was why he raised his previous question, and he feels that the Garden does have a Contract for this year. Ms. Saracini stated the intention of the Garden of Reflection was to have their outing at Makefield Highlands every year. She stated the first three years they did not have Contract, but they came up with a Contract that was agreeable, which she understands will be good for this year, but not in the future. Ms. Saracini stated they raise funds to put back into the Township. She stated she understands that it does not go into the Golf Course, but 100% of the proceeds do go to the Township. She stated other organizations have outings, but then take those proceeds away. She stated she feels the Garden of Reflection is different. She stated this is their main fundraiser and their purpose is to enhance the Township.

Mr. Smith stated he agrees that they should look into this as the funds they are raising are going back to the Township. He stated he understands the problem arose last year when someone made it known that the Garden of Reflection received a different rate than other organizations; and then different organizations were coming to the Golf Course indicating they wanted that rate as well, and that if they did not get that rate, they would go elsewhere. Ms. Saracini stated even if someone decided not to have their outing at the Golf Course because of this, someone else did have their outing there as all the dates were used for outings. Mr. Smith stated there was still concern about the potential loss of income in the future. Ms. Saracini stated she still feels the Garden of Reflection should be looked at differently as all the money they raise goes back to the Township.

Mr. Maloney stated the Township staff, Supervisors, and others were having to become involved in these situations; and he feels the only way to correct this problem is by directing Kemper that there are no special exceptions. He stated there are other local organizations which have annual fundraising events. He stated he is concerned because there is over a million dollars in debt that needs to be paid each year. He stated if the Garden of Reflection funding is an issue, he feels they need to address this as a separate item; but he does not feel they can be doing it through an indirect subsidy from the Golf Course. He stated if they are going to be financially due diligent about running the Golf Course, what he has proposed is the only way to proceed. He stated while he understands that the better rate allows the Garden of Reflection Committee to increase their funds, he feels they could pass the increased cost onto the donors and he feels the donors would be understanding of this. Ms. Saracini stated the donors are the Lower Makefield Township residents. She stated the Committee has been diligent about raising the money; and the

Garden of Reflection has cost the taxpayers nothing other than the fact that they came to a fundraiser and contributed. She stated the Committee is trying to help the Township as much as they can with the maintenance costs. She stated it will become increasingly difficult if the parameters for their major fundraiser changes. She stated there are a lot of people who feel grandfathering in the Garden of Reflection would be acceptable. She stated the Garden of Reflection is different from other organizations.

Mr. Santarsiero asked where the Golf Committee stands on this issue, and Mr. Maloney stated the Golf Committee did vote on a Resolution to grandfather the Garden of Reflection pricing scheme, but it failed by a vote of three in favor, three opposed, and two abstentions. Ms. Saracini stated it previously passed; but at a subsequent meeting a member who was not present at the initial meeting, raised some questions and this is when it became confusing, and some Committee members felt they were not the group to make this decision which is why two people abstained. Mr. Santarsiero stated they are correct that they do not have this authority, although they can make a recommendation to the Board of Supervisors.

Ms. Saracini stated they signed a Contract last year and Kemper came up with an amount they needed to pay, and they did pay this. She stated she feels like the issues were resolved, and now finds that they are starting over again.

Mr. Maloney stated the taxpayers are paying for the Garden of Reflection because the Golf Course's revenue which would otherwise be moving into Township funds is being directed to the Garden of Reflection as an indirect subsidiary. He stated as a fiscal matter when they create financial statements for the Golf Course, what they are doing is failing to reflect an indirect transfer of funds. He does not feel this is fiscally responsible. Ms. Saracini stated the Golf Course is not losing money when the Garden of Reflection holds their outing there as they are paying. Mr. Maloney stated the only way to insure that this is 100% true is that they price it consistently. Ms. Saracini stated she would ask that the Board discuss this matter in Executive Session to see if there is another way to do this.

Ms. Torbert stated she agrees with Ms. Saracini. She stated this is a Township-owned Golf Course, and it is not a private enterprise. She stated the Township made a commitment to the Garden of Reflection, and one of the decisions made early on was that the Garden of Reflection was going to have to raise money to maintain it. She feels the Township made a commitment in terms of the Golf Course, that this would be one of the Garden of Reflection's fundraisers. She stated she does not feel the Garden of Reflection having their outing at the Golf Course, is causing the Golf Course to break even. She agrees that there should be one decision maker on outing pricing, but she feels this is separate from the issue of the Garden of Reflection. She stated she feels it is appropriate for the Board of Supervisors to come up with a consistent policy as to charitable organizations, and to have Kemper follow this. She feels the Garden of Reflection should be grandfathered.

Mr. Ethan Shiller, 367 Lang Court, stated while he understands the position of the Garden of Reflection, he is on the Citizens Budget Committee and if the Board of Supervisors wishes to give money or directly subsidize the Garden of Reflection, it should be put in as a line item. He stated there would have to be a direct transfer of money and a direct commitment. He stated he feels the Golf Course books should be kept clean so they know what their profitability is. He stated if the Garden of Reflection needs financial support, they should come to the Board of Supervisors and request it, and it should be put in the Budget as a line item.

Mr. Stainthorpe stated he agrees with what Mr. Maloney is proposing and stated the reason for doing outings at the Golf Course is because they make more money than normal play. He stated the first few years, they did tell Kemper that they should take whatever they could get and there were all kinds of deals. He stated he does not feel any one group should be grandfathered in or pushed out. He stated he feels Kemper should make the decision as to what is best for the Golf Course and the Board of Supervisors and Township Manager should stay out of the day-to-day management. He stated they want to make sure that the costs are covered and they have the most profitable business they can at the Course.

Mr. Smith stated he does want Kemper to run the Golf Course, but he feels the Garden of Reflection does have a special relationship with the Township. He stated he does not feel the Golf Course will rise or fail on this one Outing. Mr. Smith stated he would like to encourage Kemper to grandfather the Garden of Reflection and that this be the only exception. Mr. Stainthorpe stated they would need to be specific as to what they are grandfathering. He stated they would have to adjust rates every year, and they should not lock into the price for 2004 in perpetuity, and Mr. Smith agreed. Mr. Stainthorpe stated he is also concerned that it will be difficult to draw the line when other organizations want something as well. He stated he feels Kemper should make the decisions as they have been hired to manage the Course.

Mr. Santarsiero stated the main difference is that the Township owns the Garden of Reflection, and it is incumbent on the Board to insure that it is maintained in a way that is appropriate given the importance and beauty of the site. He stated by voting on Mr. Maloney's Motion the Board is indicating that the one Township asset that has been subsidizing the Garden of Reflection will no longer do that, but the Township will have to come up with a way to meet any shortfall that may arise as a result of this. He stated the Township is committed to maintaining the Garden of Reflection, but the question is whether it is appropriate for the Golf Course to bear the burden of this recognizing that there are other charitable organizations that may want to avail themselves of a different rate as well. He stated the main distinction to be made is that while the Board does not want to get involved in that argument for the Golf Course as it would be difficult to be fair to the other organizations, the Board recognizes that there is still a special relationship with the Garden of Reflection because the Township owns it. He stated the

Township does have an obligation to fund the operation and maintenance of the Garden of Reflection, and the Board is committed to this.

Mr. Caiola stated he agrees that support for the Garden will come in a different form, but they are trying to be consistent with regard to the Golf Course. He stated he hopes the Garden of Reflection will continue to have their Outing at Makefield Highlands. He stated if they run into a situation where there is a shortfall, the Board will be there to support them as they have been in the past.

Mr. Maloney stated if the Township wants to make a direct subsidy in terms of the fundraising, they should discuss this. He stated once the debt for the Golf Course is paid off, the profits will go right into Park and Recreation and the Garden of Reflection will fall under this umbrella.

Mr. Smith moved to amend the Motion that they encourage Kemper, or whomever the managing agent is, to give special consideration to the Garden of Reflection. There was no second to the Motion.

Motion as originally stated carried with Mr. Smith opposed.

Mr. Santarsiero stated when they look at the Budget in 2009, they will need an idea from the Garden of Reflection Committee as to what they reasonably feel they will be able to raise and what the shortfall will be, and this is what they will need to Budget.

#### APPOINTMENTS

Mr. Smith moved, Mr. Santarsiero seconded and it was unanimously carried to appoint Colleen Klock to the Citizens Budget Commission.

There being no further business, Mr. Maloney moved, Mr. Santarsiero seconded and it was unanimously carried to adjourn the meeting at 11:40 p.m.

Respectfully Submitted,



Matt Maloney, Secretary



# Township of Lower Makefield

BOARD OF SUPERVISORS  
Greg Caiola, Chairman  
Steve Santarsiero, Vice-Chairman  
Mati Maloney, Secretary/Treasurer  
Ron Smith, Supervisor  
Pete Stainthorpe, Supervisor

**FEBRUARY 2008 WARRANT LISTS AND  
JANUARY 2008 PAYROLL COSTS FOR APPROVAL  
FEBRUARY 19, 2008 BOARD OF SUPERVISORS MEETING**

2/4/2008 Warrant List	\$ 464,136.84	
2/08 Manual Checks	94,030.00	
2/19/2008 Warrant List	696,523.47	
Total Warrants & Prepays		1,254,690.31
<u>PAYROLL COSTS:</u>		
JANUARY 2008 Payroll	286,414.00	
1/08 Payroll Taxes, etc.	100,965.00	
Total Payroll Costs		<u>387,379.00</u>
TOTAL TO BE APPROVED		\$ <u><u>1,642,069.31</u></u>

