

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – JULY 18, 2018

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on July 18, 2018. Mr. Lewis called the meeting to order and called the Roll.

Those present:

Board of Supervisors:        John B. Lewis, Chairman  
   Fredric K. Weiss, Vice Chairman  
   Kristin Tyler, Secretary  
   Daniel Grenier, Treasurer  
   Suzanne S. Blundi, Supervisor

Others:                             Kurt Ferguson, Township Manager  
   David Truelove, Township Solicitor  
   Andrew Pockl, Township Engineer  
   Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Maryann Carrol, 13 E. School Lane, asked about the status of the improvements at the Makefield corridor to hopefully reduce speed and improve safety. She asked if PennDOT has accepted the Permit Application to extend the length and time of the School Zones on Makefield Road. She also asked if Contracts have been issued for work to commence for the reflective paint, rumble strips, and the raised crosswalk. She also asked if Chief Coluzzi has identified any new purchases in terms of traffic-calming equipment such as electronic and automatic signs to alert drivers to slow speed. Chief Coluzzi stated he has not spoken to TPD who may have heard back from PennDOT. He stated at the last meeting he advised Ms. Carrol that the letter had been sent, and PennDOT is reviewing the extended times on the School flashers. He asked for further clarification from Ms. Carrol as to additional equipment she referred to, and Ms. Carrol stated she would like to know if they are considering additional equipment purchases in the Budget since the Township only owns one automatic speed sign. Chief Coluzzi stated they can discuss that at the Budget discussion in late September/October. Chief Coluzzi stated Mr. Pockl will be discussing the work to be done on Makefield Road. Mr. Pockl stated the Township Ordinance requires a thirty-day review period of the contractor to make sure that they are qualified. He stated Bids were opened on June 19, and the review period will end tomorrow. He stated they have determined that the contractor is qualified.

Mr. Pockl stated the Contracts will be signed and issued, and they will hopefully start construction prior to the start of August.

Ms. Carrol asked if he believes that the work will conclude by August 27 when School starts, and Mr. Pockl stated the work is part of the overall 2018 Liquid Fuels Road Program which has a forty-five day Contract period. He stated they will work with the contractor to make sure that the improvements along Makefield Road are done sooner within that Contract period. It stated it is everyone's best interest to get that work done when there is no School in session. Ms. Carrol asked if there is a way to specify that they have to complete it by August 27 before the Contract is signed. Ms. Carrol stated much of the work will be done at the entrance for the School buses. She also stated when the crosswalk improvements are made there will have to be traffic diversion which she feels will remind drivers how they can divert through residential neighborhoods, and they have problems on E. School Lane with 550 cars coming down their street. Mr. Pockl stated their Bid was based on specifications that the Township had written; and in those specifications the Township has the authority to review their schedule and approve it. Mr. Pockl stated there is a single contractor who will complete the Oxford Valley Road reconstruction, the overlay of all Township roads that are in the Road Program, and the traffic-calming improvements along Makefield Road.

Ms. Carrol asked Chief Coluzzi to have the engineer follow up with PennDOT prior to the next meeting so that hopefully the Permitting process is done before the School year starts, and Chief Coluzzi agreed to do so.

Ms. Carrol stated the tragedy that occurred on Makefield Road forty-nine weeks ago was not the first accident, and there was another fatality in April, 1980 so there has been thirty-eight years of problems. She stated she knows that this is a first step, but she feels it is a "baby step." She stated when they start the Budget process in September, they should be very aggressive with how they address traffic calming. She stated she feels taxes, development, ratables, and the water and sewer problem "pale in comparison" to addressing traffic problems in Lower Makefield.

Mr. Harold Kupersmit, 612 B Wren Song Road, asked about the meeting schedule for August. Mr. Lewis stated it is the Board's intention to have the two scheduled meetings in August. Mr. Kupersmit asked if the Board will turn over to him the "situation with the super bugs and put him in charge." He added he does not feel the Board is showing much leadership.

Mr. Robert Abrams, 652 Teich Drive, stated he has discussed on Facebook the tower that the Township leased to “SBC” Communications for half of the value that the Township was getting for it for the next thirty-five years. Mr. Abrams stated Mr. Fedorchak was instrumental in recommending this, and he feels it is “very strange” that the Township Manager with “at least one foot out of the door” would “pigeon hole the new guy coming to sit in his seat for thirty-five years.” Mr. Abrams asked Mr. Ferguson if he was consulted about this, and Mr. Ferguson stated he was. Mr. Abrams stated Dr. Weiss had put up an article from the New York Times about “fake mailboxes and cylinders hanging from poles.” Mr. Abrams stated he feels this will involve the tower. Mr. Abrams expressed concern with the loss of money by what was done with the tower. He stated “the stench is horrible that someone who is a stockholder in SBC or somebody knows somebody or somebody has a buddy to go out thirty-five years for that kind of money.”

Mr. Lewis stated it is not SBC or related to AT& T or Ameritech, it is SBA which is a separate company. He stated they talked to three different companies, and it was an over six-month process. He stated there was discount cash flow analysis done to assess the Bids. He stated as it relates to 5G technology one of the things the Board has been dealing with is potential Federal and State regulations that would remove our ability to capture any fees associated with 5G placements including not allowing the Township to apply Zoning law so companies could place cell towers wherever they choose without giving the Township the chance to regulate them. He stated they had to look at the regulatory environment and the declining revenue from that particular cell structure versus other cell structures where they were getting increasing revenue, and they chose to retain the lease rights and the structure of those. He stated it was a portfolio decision made by a unanimous decision of the Board, and he does not recall that anyone recused themselves for any knowledge or relationship with SBA or any of the other companies that they considered. Mr. Lewis stated they considered a consultant and they worked with a legal specialist in this area. He stated the Board considered this over a long period of time before coming to this decision. Mr. Lewis stated he takes some degree of offence when Mr. Abrams makes an ad hominem attack about Board members although Mr. Abrams is welcome to argue the case regarding cash flow, structure of payments, etc. or that the Board’s assumptions were flawed; however, he does not feel it is fair to the Board to make other types of claims “without any rational reason.”

Mr. Abrams was advised that he had his three minutes of Public Comment. Mr. Abrams stated he was going to ask where the money went.

Mr. Bill Gerhouser, Olsen Drive, stated less than two months ago PECO started dropping new wires in his neighborhood, Queens Grant. He stated currently the wires run through the gutters, cross streets, and there is cable bridging in the middle of the road that acts as speed bumps. He asked when and if PECO will finish this as it is very dangerous particularly for bikes and motorcycles. Mr. Lewis stated when PECO has buried wires that are failing they have to be replaced which can take a long time; however, they will discuss this with Mr. Dorand at PECO. He asked Mr. Gerhouser the streets involved; and Mr. Gerhouser stated they are on Ramsey, Weber, S. Crescent, Olsen, Piper, and Denny. Mr. Gerhouser stated he is concerned about the potential of exposed wires since they have been out there for so long and cars are driving over them. Mr. Lewis asked if PECO had reached out to any of the neighbors about this work being done; and Mr. Gerhouser stated they did not, and he came home and found wires laying in the street. Mr. Ferguson agreed to contact Mr. Dorand and report back on PECO's plan.

Mr. Ken Seda, 912 Weber, stated he was there when PECO started the work; and PECO had indicated there were problems and they were putting in temporary wires and would come back, but they have yet to return. Mr. Seda asked the Plan for the PECO issue around trimming with hurricane season coming. He stated he and a number of neighbors had no power for almost a week in the past. Ms. Tyler stated she and some members of the Electrical Reliability Committee (ERC) met with Mr. Dorand about a week and a half ago, and they reviewed PECO's storm response, their ongoing restoration plans, their trimming plans, and their investment in infrastructure. She stated they did not get Lower Makefield specific information and they get Bucks County information which makes it difficult. Ms. Tyler stated she will have the ERC come to a meeting and present their report as to what Mr. Dorand told them. Mr. Lewis stated PECO has to report to the PUC of the circuits that are the weakest performing circuits in their network and to develop a plan for them. Ms. Tyler stated the ERC is hoping to get additional information from PJM, which does the transmission in the area, as to what PECO is doing, what they should be doing, and what PJM considers to be the poorly-performing circuits. Ms. Tyler stated Mr. Dorand did advise that Lower Makefield no longer has any circuits in the lowest 5%. Ms. Tyler suggested that Mr. Seda and Mr. Gerhouser attend their next ERC meeting. She stated they will also be contacting Mr. Warren's office.

Mr. Seda stated the Golf Course has League play three nights a week, and there is a Twilight Rate that residents can use only four days a week. He stated he assumes they want to provide benefits to the residents through the Twilight Rate; however the League play at one point was taking up three days a week so there was only one night when you could take advantage of the Twilight Rate. Mr. Lewis stated the primary goal of the Golf Course is to maximize revenues; and if League play is generating more than the Twilight discount, they would have to look at that since the primary goal is to generate as many rounds as possible at the highest average

rate per round. He stated all residents do get a discount when they go to Makefield Highlands. He stated residents should also consider going to the Makefield Highlands Grill adding they have a new menu.

Mr. David White, Gayle Drive, stated at the last meeting Mr. Truelove indicated that his office had sent a letter to the Federal Railroad Administration on June 13; and he asked if he has heard back from them. Mr. Truelove stated he spoke with Ron Ries of the Railroad Administration who is involved with the Quiet Zones. Mr. Truelove stated the issue was distinguishing between sounding of the horns and sounding of the bells; and Mr. Ries' opinion was that the sounding of bells is not covered by the Quiet Zones jurisdiction and it is not something that they prohibit. He stated Mr. Ries is looking into the sounding of the horns, and hopefully there will be a meeting with the Township to discuss that and any sanctions against CSX or whoever is the violator. Mr. White stated he would question if there is no need to sound a horn why is there a need to ring a bell, and Mr. Truelove stated possibly there are other means to attack that problem and possibly they could discuss this with our Congressman. Mr. White stated there are two companies using the rail lines, and one of them does not have any bells at all and see no need to have them, yet CSX uses them with no consistency. Mr. White asked if there had been an indication as to the number of violations/complaints in the letter, and Mr. Truelove stated he included this in his letter to the FRA as he had information from Mr. Fedorchak and others who listed specific violations. Mr. White stated it has not improved, and in July to date there have been eighty-five violations. Mr. Truelove asked that Mr. White provide that information to Mr. Ferguson, and Mr. Truelove will send a follow-up letter to Mr. Ries so that hopefully they can set up a meeting since they are obviously not complying with the requirements even if they do not count the bells.

Mr. Lewis stated they also reached out to CSX about the quality of the grading at the Heacock crossing, and they will follow up on this.

Mr. White stated there have been weekends when they are blowing the horns all day long so there is obviously something going on at the crossings. He stated if they are having on-going signal problems, they need to fix them. Mr. Lewis stated on Sunday there was a Railroad employee manning the signal so they were doing some kind of work. Mr. White stated that situation went on well into the night. He stated he has heard over 400 violations over the past six months, and he feels there have probably been twice that number of violations.

Mr. Ferguson stated he just received a response from Mr. Dorand to his text and he advised that he is on vacation; however, he indicated that he believes that the temporary work will be done within two weeks, and he will follow up with Mr. Ferguson on Monday when he returns from vacation.

Ms. Amy Sheaffer, 3 Central Drive, stated she was pleased to see on the Agenda that the Board is considering a draft Ordinance covering short-term rentals. She asked if the Board could advise what the next steps will be as she and some of her neighbors are present and would like to know when there will be an opportunity for public comment on this. Mr. Lewis stated when they get to that section of the Agenda, they will review the details of the Ordinance and accept comments at that time. He stated if a majority of the Board members are in favor of the proposed Ordinance, it would be published which would allow others to comment on it; and a final approval would be scheduled for a future meeting.

#### APPROVAL OF MINUTES OF JUNE 6, 2018 AND JUNE 20, 2018

Ms. Tyler moved and Dr. Weiss seconded to approve the Minutes of June 6, 2018 as written.

Mr. Lewis stated there was a circumstance where a member of the public refused to give their address. He stated the Board's policy has always been to accept the address and that individual has previously come before the Board and provided his address. Mr. Lewis asked the Board's opinion of amending or noting the actual address in the Minutes. Mr. Lewis stated he does not want to create a circumstance "where bad behavior is rewarded." Mr. Truelove stated he is not aware of any law that would prohibit the Board from amending the Minutes to include that information if it is related to a public record that was generated before and that previously that individual had provided his address. Mr. Lewis asked the Board if they would be comfortable mentioning that Mr. Gerald Arth of 1396 Heller Drive in Lower Makefield was the participant in the June 20 meeting who refused to give his address. Mr. Truelove stated they could Move to approve the Minutes with that amendment.

Ms. Tyler agreed to accept this Amendment and Dr. Weiss seconded.

Ms. Tyler stated her Motion was only for June 6, and she withdrew that Motion.

Ms. Tyler moved, Dr. Weiss seconded and it was unanimously carried to approve the Meeting Minutes of June 6, 2018 as written and June 20, 2018 with the addition of Mr. Arth's address as indicated in prior Township Records.

APPROVAL OF JULY 2, 2018 AND JULY 16, 2018 WARRANT LISTS AND JUNE, 2018 PAYROLL

Dr. Weiss moved, Ms. Blundi seconded and it was unanimously carried to approve the July 2, 2018 and July 16, 2018 Warrant Lists and June, 2018 payroll as attached to the Minutes.

**APPOINT KURT FERGUSON AS ASSISTANT SECRETARY AND RIGHT TO KNOW OFFICER**

Mr. Grenier moved, Dr. Weiss seconded and it was unanimously carried to appoint Kurt Ferguson as Assistant Secretary and Right to Know Officer.

CONSIDER AUTHORIZING ADVERTISING OF ORDINANCE ADDRESSING THE HEALTH, SAFETY, AND WELFARE ISSUES ASSOCIATED WITH SHORT-TERM RENTALS

Mr. Truelove stated they have drafted a proposed Ordinance for regulating short-term lodging facilities which is in response to some of the issues that have arisen in the last six to nine months involving some properties in the Township that have been used frequently for what is commonly known as Airbnb and some of the other similar type arrangements. He stated what they have proposed may not be the only way to approach this, and there may be other ways that the Board and the public want to consider as well so this is just a start. Mr. Truelove stated what has been recommended which is before the Board this evening is a regulatory process and not a Zoning process to make sure that there are the means for insuring that there is adequate sewage facility, parking, and other aspects that are required to insure the health, safety, and welfare of those using the facilities will be met, and also that the Township has oversight and regulation over this use and so that for violations there is an enforcement process available through warnings and eventually even possibly prosecution that leads up to fines and other types of penalties.

Mr. Truelove stated this was modeled on what the City of Bethlehem did, and they feel that going through the regulatory process as opposed to the Zoning process is more appropriate and would be more achievable at this point; but it would not be mutually exclusive if the Board or public desire to go through the Zoning process. He stated there is a challenge with the Zoning process related to the Fifth Amendment of the Federal Constitution, and regulation is much easier than prohibition. He stated the Zoning process in terms of an Ordinance Amendment

takes much longer because it has to go through the requirements of the Municipalities Planning Code, which involves going to the Lower Makefield Planning Commission and the Bucks County Planning Commission.

Mr. Truelove stated they are proposing a License Fee. He stated there are two different types of accommodations that have been specified – one of which is a specific bedroom accommodation where the owner of an owner-occupied single-family dwelling may rent no more than two bedrooms to transient visitors for a period of not less than twenty-four hours and not more than thirty consecutive days. He stated under this arrangement the owner must occupy the residence during the stay of the transient visitors. Mr. Truelove stated the second is entire residential unit accommodation, and an owner may rent their entire residence to transient visitors for a minimum period of seven consecutive days not to exceed thirty consecutive or non-consecutive calendar days per year with the calendar year being January 1 through December 31. Mr. Truelove stated in this type of arrangement, the owner is not required to remain on the premises during the stay of the transient guests.

Mr. Truelove stated there are also performance standards, and the dwelling must be a single household residential unit; and they cannot convert it to non-residential purposes. He stated the Licensing requires an accurately-drawn floor plan to make sure of the number of bedrooms and the location and number of smoke alarms and carbon monoxide detectors. He stated every level of the residence and any attached structures should show the windows and exterior/interior doors which is a safety measure. Mr. Truelove stated in the event of short-term rental lodging with the owner/occupant in residence the floor plan must clearly designate the bedrooms to be used for short-term lodging and should be within the principal dwelling unit and not in an accessory building.

Mr. Truelove stated they will also require an annual inspection conducted by the Zoning, Inspection, & Planning Department. He stated in the document they have referenced the Lower Makefield Housing Code; however, tonight they are asking for a modification of this to be the Lower Makefield Township Code of Ordinances.

Mr. Truelove stated they also will require that they have to be responsible for trash and recycling removal and give notice about the type of trash and recycling they have and who the hauler is so the Township can make sure that is done on a regular basis. Mr. Truelove stated the owner will also be responsible for the safety and welfare of all transient visitors and guests and preserving the peace and quiet of the community within the short-term lodging of the facility. He stated there cannot be noise or destruction cause by any transient visitors or guests; and if so, they would be subject to other Ordinances of the Township including Chapter 144.



Mr. Lewis asked about the penalties for violation. Mr. Truelove stated they have a notification process because of due process, and there would be formal warnings, suspension/revocation, non-renewal; and there are other violations that can be enforced. He stated the first violation would be a fine not to exceed \$200 and not more than thirty days imprisonment. He stated the second violation would be a fine not to exceed \$500 and not more than sixty days imprisonment. The third and any subsequent violations would be a fine not to exceed \$1,000 and not more than ninety days imprisonment or both. Mr. Truelove stated that process would go through the Magisterial District Justice; but there is also a provision, which is common for Ordinances of this nature, which would be that the Township would be authorized to enforce this Ordinance to an Action and Equity brought in the Court of Common Pleas in Bucks County which would include injunctive relief if they had to seek that.

Mr. Lewis stated he felt they were provided a more recent version of this which had different penalties. He stated the first offence would be subject to a maximum fine of \$1,000 with no imprisonment; and with the second and subsequent offences, they would be subject to a maximum fine of \$1,000 and a maximum ninety days jail time so they would not be seeking jail time for the first offense.

Mr. Truelove noted that the replacement of the Housing Code by the Code of Ordinances would incorporate the Property Maintenance Code so that it would incorporate all the different Codes of the Township not just anything that deals with housing.

Dr. Weiss moved and Ms. Blundi seconded to authorize the advertisement of the Ordinance addressing the health, safety, and welfare issues associated with short-term rentals as amended by the comments tonight.

Ms. Tyler asked the basis of the challenge to the City of Bethlehem's Ordinance; and Mr. Truelove stated while he is not sure, he believes part of it may have been the Ordinance enactment process adding Bethlehem is a City and not a Township. He stated he believes that there may have been some challenges based upon Fifth Amendment issues as well, but he added that Regulatory is easier to defend. He stated he believes that what they are proposing is more defensible than a Zoning Ordinance. Ms. Tyler asked if Bethlehem's was a Zoning Ordinance; and Mr. Truelove stated it is a Regulatory, but the ones that are before the Supreme Court now which are still undecided are all Zoning Ordinances which are the ones that the Intermediate Appellant Courts have all struck down. Ms. Tyler asked where Bethlehem is in the Judicial process, and Mr. Truelove stated he believes it is at the Common Pleas level trial court. Mr. Truelove stated if the Board authorizes advertisement, his office can advise the Board on that prior to the next meeting.

Ms. Tyler asked what has happened in the Township with regard to the citizens' complaints. Mr. Truelove stated Ordinances in many places have not kept up with the times, and the Township did not have sufficient language or provisions in the Zoning Ordinance to deal with the situation which was existing in the Township. Ms. Tyler asked what is the likelihood that they will have litigation with the specific homeowner who came before the Zoning Hearing Board. Mr. Truelove stated this would be difficult to state at this time. Mr. Truelove stated in other circumstances if a regulatory scheme can be considered a rational relationship to the pursuit of maintaining health, safety, and welfare the Ordinance should withstand scrutiny. Ms. Tyler asked if this is ready for strict scrutiny as drafted or does it need more work. Mr. Truelove stated he feels it is ready given the state of the Law, but he cannot make any guarantees.

Mr. Grenier asked about Solebury; and Mr. Truelove stated Solebury passed a Zoning Ordinance which is still subject to review and has not been challenged yet. Mr. Truelove stated they could consider that approach as well, and they are not mutually exclusive. He stated they do feel the likelihood of success is better with this compared to Zoning at this point since it is not as restrictive or prohibitive and is more regulatory. Mr. Lewis stated the Solebury Ordinance did get reviewed positively through the Bucks County Planning Commission, but that was a longer process. Mr. Truelove stated while Bucks County Planning Commission is a "worthwhile group," they had planners look at it and not attorneys. He stated he does not believe they had the Bucks County Solicitor's Office look at it and weigh in.

Mr. Lewis stated he is strong supporter of the proposal, and he feels it strikes the right balance between legitimate property owner rights and protecting the health, safety, and welfare of the community. He stated he is troubled that they had to go through this path, and they need to keep working on this to make sure that they can address the issue; and he is hopeful that this Ordinance will be effective and will stop the "weekend party rental situation" they have at a few properties. He stated they have the tools with the Planning and Zoning Office to effectively regulate those who attempt to have short-term rentals so they can make sure that they are abiding by the rules.

Mr. Grenier asked Mr. Majewski if he feels he has the tools to enforce this. Mr. Majewski stated he believes that they have the staff available. He stated they need to put some procedures in place once the Ordinance is adopted. Mr. Truelove stated these would be done by Resolution.

Ms. Blundi thanked Mr. Truelove and his office for the work done on this since as things change, we need to look at our rules and regulations so that we can address items they did not feel years ago would be an issue. Ms. Blundi stated she feels this is a thoughtful approach to dealing with this situation.

Mr. Ken Seda, 912 Weber, stated he had not heard about this issue previously, and he is concerned about enforcement and whether they are trying to draft something for the exception since he feels the Township already has other “peace” Ordinances.

Ms. Amy Sheaffer, 3 Central Drive, stated as a neighbor of a property that has had issues with short-term rentals she is pleased to see that the Township is addressing this and that what they are proposing includes real consequences; and it will give the residents some protections with regard to health and safety. Ms. Sheaffer stated she is concerned that for residences where the entire residence is rented out they specified it as “primary residence;” and she asked if that would only cover a person’s only house. She stated in the situation she is concerned about, the person owns more than one property which makes it a situation where it is a business and changes the character of neighborhoods like hers. Mr. Truelove stated they will consider that between now and time they decide whether to enact this and see if they need to consider adding another sub-category. Ms. Sheaffer stated she feels it should be airtight and preserve the residential character of the neighborhood and maintain their property values, since the situation that is taking place now is similar to living next door to a hotel. Mr. Truelove stated if there are situations where there is excessive noise, they do have Peace and Good Order which can be enforced. He also stated the Property Maintenance Code limits how and where people can park their vehicles. He stated these would all be incorporated into this Ordinance.

Mr. Lewis read from 130-3 Section B which relates to Ms. Sheaffer’s concern about the primary residence; and he feels if they change it to “a residence they own” as opposed to “primary,” it would address the concern. Dr. Weiss stated he agrees. Dr. Weiss noted that when this matter went to the Zoning Hearing Board for clarification, it was noted that since the house was not owner occupied, it did not fall under any of the definitions for Bed and Breakfast or hotel.

Mr. Lewis moved and Ms. Blundi seconded to amend Section 130-3 Sub-Section B to read “An owner may rent a residential property to transient visitors.”

Ms. Tyler stated she does not feel that this is ready for advertising and publication, and there are more things that need to be discussed and some that have not been contemplated. She asked Chief Coluzzi if he has received complaints regarding any Airbnb style homes in Lower Makefield Township. Chief Coluzzi stated the only call he has received was regarding the Makefield Road Airbnb and that was in reference to parking several weeks ago, and he was not contacted about any disturbances or any other issues. Ms. Tyler asked what is the public health, safety, and welfare issue that they are addressing. She stated she feels the residents should call the Police with the legitimate problems they complained about. She stated there is pending Supreme Court litigation and pending litigation against the Ordinance which we are considering modeling our Ordinance on. She stated she feels we are being “hasty,”

and we should build a record with our Police Department to demonstrate that a problem exists that is effecting the health and welfare of the residents. Mr. Truelove stated 130-1 does discuss Purpose and Intent.

Ms. Kathleen Webber, 1801 Makefield Road, stated she lives next to the property that was discussed in January; and she thanked the Township for all the work they have done on this proposed regulation. She agreed they have not called the Police. She stated the property at 1711 Makefield has been rented all summer, and there have been weddings, catered graduation parties, and currently there has been something going on there for a month which they believe is a camp as there is a bus that is parked there and people are dropping off on Central Drive every morning between 8:30 a.m. to 9:00 a.m. She stated there are teenagers there with one adult. She stated they go somewhere for the day and come back at approximately 5:00 at night. She stated while they have not been loud, they have walked through Ms. Sheaffer's yard and trampled her garden. She stated there are also issues with trash. Ms. Webber asked how Mr. Majewski would know there is a violation. She stated the neighbors went to Mr. Majewski last summer since they did not know what was going on since the homeowners had left and "suddenly all these cars were showing up in the driveway." She stated there were noise issues and parties.

Mr. Truelove stated part of the notification to the Township would depend on neighbors, and the Township could also go onto the Internet to see what people are advertising. Mr. Lewis stated the Township had come across a Website called AirDNA which tracks short-term rentals, and they were able to see all the rentals that were occurring in the 19067 Zip Code. Mr. Lewis stated the intent is not to eliminate the capability for people, and they could still rent rooms in their house. Mr. Ferguson stated even if it is regulated, it does not give someone the right to rent a three-bedroom house to twenty people; and there are certain occupancy maximums. Ms. Webber stated the home sleeps fourteen. Mr. Ferguson stated if someone is registered, the Township has a way to contact them and follow up if there are suspicions that the use is more expansive than what had been indicated in the Application.

Ms. Webber stated it has been difficult for the neighbors worrying about who is coming in on the weekend and what the issues will be. She stated they have not called the Police. She stated in January she had advised at the meeting that there were "drunk partygoers" who were playing basketball at 12:30 a.m. and while she had gone out and asked them to stop, she was worried that they would retaliate. She stated there was a wedding recently when the cars were "clogging" Central Drive. She stated it has been a nuisance and has changed the fabric of the neighborhood. She stated the house is an anomaly because it is "huge," and she does not feel most Airbnbs in the Township are this large. She stated if you go onto the site, it is listed as a "party house" so it is different from other rental properties.

Mr. Ferguson stated it does require people like Ms. Webber to be diligent and call the Township so they can enforce and impose the various penalties that will presumably motivate the property owner to be more selective as to who they rent to. Mr. Truelove stated the Township does have Chapter 144 – Peace and Good Order, so that if someone is engaging in conduct which violates this, it is their right as residents to call the Police, and they should take advantage of that.

Ms. Blundi stated if there is trash and numerous cars on the road, the residents are encouraged to call the non-emergency number. She noted that even if the Ordinance is passed, they will still need to rely on residents who live near these properties to let the Township know what is occurring.

Mr. Mike Brody, 509 Brookbend Court, questioned the “jail time” aspect. Mr. Truelove stated it would be at the discretion of the Judge, and there are different standards for which type of relief you are requesting. He read from the “Criteria for Applying Sanctions.”

Mr. Ronald Bitner, 1800 Wrightfield Avenue, stated he is across the street from the property in question; and he expressed concern about the impact on the neighbors and property values.

Ms. Tyler asked if there is an issue with this Ordinance being considered in response to one home. Mr. Truelove stated in this circumstance, it is the most extreme example because of the size of this particular house in relation to the neighborhood. He stated there may be others that are operating that may be in violation; however, he understands this is the most extreme example even if it is not the only one.

Ms. Tyler stated residents came to the Township with a concern and wanted them to stop Airbnbs, and this is not what is being done; and we are actually acknowledging and authorizing them through this statute. Ms. Tyler stated the Township has laws presently such as noise violations, trash, and parking; and if something wrong is being done the Township should be contacted. She is concerned that this is particular to one home, and she feels it is important to do it properly. She stated she has issues with placing it for advertising this evening.

The Motion for the proposed Ordinance being advertised was approved with Ms. Tyler opposed.

Mr. Truelove stated this is still subject to further discussion and review. Mr. Lewis stated this allows people to comment and potentially there could be further Amendments if necessary.

## OTHER BUSINESS

Mr. Lewis stated State Representative Perry Warren is present with a Proclamation for Terry Fedorchak. Representative Warren stated when he first took office in January, 2017 one of the first things he did was to meet with Mr. Fedorchak to discuss issues related to Lower Makefield Township. He presented a Citation to Mr. Fedorchak on behalf of the Commonwealth of Pennsylvania commemorating Mr. Fedorchak's forty-three years of service, twenty-five of which were in Lower Makefield Township.

## CONSIDERATION OF THE 2017 AUDIT REPORT

Mr. Terry Fedorchak was present with Mr. Peter Place, from Lopez, Teodesio & Larkin. Mr. Place stated they completed the 2017 Audit of the Township. He stated the Opinion Letter, Page 1 and 2, recognizes that the statements are the responsibility of the Township. He stated as auditors, they test the numbers, do observations, and inquiries, etc. ; and they then came to the conclusion that the numbers are what they should be within the materiality. He stated this is his sixth year doing the Township Audit, and he finds that the numbers are always strong. He stated he has experience with other Townships and Boroughs, and he feels that the services provided to the Lower Makefield Township residents have a lot of value. He stated the Board and the Township should be commended for their management.

Mr. Place stated Pages 3 through 11 is the Management Discussion and Analysis and there are highlights and a comparison between 2016 and 2017. Mr. Place stated the General Fund had an increase. He stated the Township Pool membership continues to grow, and the Golf Course has been stable. He stated there was a rate increase in 2018 for the sewer and since expenses exceeded revenue in 2017, this is not a surprise. He noted Page 12 which has the column of Government Activities and the column of Business-type Activities. He stated the biggest asset is the Fixed Assets – infrastructure, etc. Mr. Place noted Page 13 which is the Statement of Activities and the Government Activities have a positive \$1.4 million, and the Proprietary Funds have a deficit of \$1.1 million with a net positive of approximately \$260,000.

Mr. Place stated Page 14 and the pages going forward are on a cash basis and not a general accrual as are Pages 12 and 13. He stated Page 18 is the Proprietary Fund where there are three enterprise funds – the Sewer Fund, the Pool Fund, and the Golf Course. Mr. Place stated Page 19 is the Proprietary Funds Income Statement which shows the loss in the Sewer Fund, the Pool breaking even, and the Golf Course having approximately \$123,000 profit for the year. Mr. Place stated Pages 22 and 23

are the Fiduciary Funds with the biggest being the Pension Funds which did very well in the market during 2017 and the net of the liability only went up about \$200,000 so it was a very good year for the Pension Funds.

Mr. Place stated Pages 24 through 54 are the Note Disclosures. He particularly noted Page 33 which are the investments, Page 35 which is a detail of the Capital Assets, Page 36 which is a detail of the Bonds adding that while there was no Bond issuance in 2017, there was one in May of 2018 which was disclosed as a subsequent event. Mr. Place stated the Township Bond rating was excellent which shows the strong financials of the Township. Mr. Place stated there was a Bond premium of 10% which was approximately \$900,000 which is excellent.

Mr. Place stated the Pension is detailed beginning on Page 40 through Page 47. He stated on Page 43 it shows the Pension liability in the funding percentage; and the non-uniform is 82%, and the Police is 74.5% with a total of 77.6%.

He stated after the Note Disclosures the back schedules are the Budget versus Actual Reports with some Pension Reports as well.

Mr. Lewis asked Mr. Place if he sampled inter-fund transfers in the Audit, and Mr. Place stated they did reconcile them. Mr. Lewis asked Mr. Place if he had any concerns with the level of the unfunded Pension liability compared to where the Township should be statutorily, and Mr. Place stated he did not. Mr. Lewis asked if Mr. Place noticed any contingent liabilities that the Board had not previously discussed or disclosed, and Mr. Place stated not that he was aware of. Mr. Lewis asked Mr. Place if he had any concerns with deficits of major Government Funds, Capital Reserve Funds, Special Project Funds, or Parks & Recreation. Mr. Place stated while he knows there are some deficits in some of the funds, overall he believes those deficits can be made up in different Funds. Mr. Lewis stated Mr. Place stated that the Golf Course had \$123,000 of earnings, but that is prior to Debt Service associated with the Golf Course; and Mr. Place agreed. Mr. Lewis asked Mr. Place if he is comfortable that the Golf Course will meet its Debt Service obligation, and Mr. Place stated he is for the short term. Mr. Lewis asked Mr. Place if he has any concerns with the level of debt and structure of debt the Township has. Mr. Place stated the Township is one of the few that does not have an Earned Income Tax; and if the Township were to enact one, debt would dwindle very quickly, however, not having an Earned Income Tax is a great benefit for the residents. He stated he has tax clients who live in Upper Makefield who he has told to move to Lower Makefield. Mr. Place stated he does not have concerns about the debt since he knows that there are other revenue sources that the Township could tap into. Mr. Lewis stated total indebtedness did decline last year, and Mr. Place agreed. Mr. Lewis stated the Audit includes a gap valuation of the sewer system, and he asked Mr. Place if he has considered how they might go about doing a fair market

evaluation of the sewer infrastructure in Lower Makefield. Mr. Place stated with GASB (Government Accounting Standards Board), they capitalize assets at fixed cost so there is no adjustment of fair market value of any fixed assets or infrastructure. He stated as an auditor they would not be involved with what they felt the fair market was.

Ms. Tyler asked the unfunded liability on the Pensions; and Mr. Place stated it is 23%; and the Township every year makes its contributions that the actuary determines they should make. Ms. Tyler stated the last six years she has been on the Board they always get a good Audit report which is an illustration of the management practices employed by the Township, and she specifically noted Mr. Fedorchak's fine stewardship over the finances.

Mr. Fedorchak noted the General Fund year end balance of nearly \$3 million which is "extraordinary." He stated when they approach the 2019 Budget, this will provide the option to use a good portion of that and "plug some holes" in some of the Capital funds. He also noted the Sewer Operating Budget, and stated approximately one year ago when he was presenting the 2018 Sewer Budget, they discussed the deficits they were facing primarily because of the capital requirements. He stated at that time he recommended a 25% rate increase; however, he then backed off and recommended 14 ½% and when they do the 2019 Budget, they can review the numbers. He stated this is something they need to look at going into 2019.

Mr. Joe Menard, 917 Putnam Drive, noted Page 3 regarding the sewer funds. He stated he would like to see this expanded to indicate that the Capital contribution process stopped in 2016 as they did not have it in 2017. Mr. Menard asked when the Audit Report was issued in late June did Mr. Place issue any recommendations for control questions, operations, or best practices. Mr. Place stated they did, and he has some notes that he will probably do a recommendation on; but they are not deficiencies so they are nothing that he would have to disclose in the Audit itself. Mr. Menard asked that these be made available on the Website when they are done. Mr. Menard asked if the Sewer Operating statement combines the Capital and the Operations, and Mr. Place stated it does. Mr. Menard stated there is a \$536,000 deficit in the combined funds of the Sewer Operating and the Sewer Capital, and Mr. Place agreed. Mr. Menard stated this is the same with the General Capital Fund where there is a deficit of \$300,000 to \$400,000, and Mr. Place agreed. Mr. Menard asked if there is another General Obligation Bond Fund that would fund these later or has all the money from the 2016 Issue been spent. Mr. Place stated Mr. Fedorchak just indicated that the General Fund has a positive of \$3 million. He stated if you take all the funds together, there is obviously not a deficit. Mr. Menard stated \$1 million of that deficit is in the Sewer. He asked Mr. Place if he would recommend that they move the General Fund money over to cover the Sewer deficit.



Mr. Fedorchak stated it would not, and it would be his recommendation to raise the sewer rates for 2019 to offset that deficit. Mr. Menard stated he believes that it requires a minimum of 10% increases through 2022 to cover the Operating deficit and the Capital deficit without spending any more money on the Capital. He stated he is also concerned that in the Audit Report, it talks about the need to spend \$5 million to \$8 million over the next three years for the sewer. Mr. Menard asked Mr. Grenier, as the Liaison to the Sewer Authority, if he feels that is the right Capital expenditure going forward. Mr. Grenier stated there are the current rates and what Mr. Fedorchak is recommending for future rates which is difficult to determine since the Township does not always get the best information from Morrisville. Mr. Grenier stated also what is an unknown at this point is how much will have to be spent at the Township level for future sewer issues such as a new plant or going somewhere else which they are looking at now. Mr. Menard stated there are items needed for Morrisville until they get five to ten years in the future to build the \$60 million to \$100 million plant. Mr. Menard stated the Capital funds for the sewer are currently at a deficit, and the indication is that there is no Reserve Bond monies from the last Issue for any new expenditures. Mr. Fedorchak stated that is incorrect. Mr. Menard asked how much money is left from the 2016 Bond Issue. Mr. Fedorchak stated he believes that there is approximately \$5 million that they carried into this year from the Bond Fund that was left over from the 2016 Issue. Mr. Menard asked where that money is represented in the Audit Report. Mr. Place stated Mr. Menard is bringing up the deficits; and if you look in total there is \$9.3 million of cash in all the funds together. He stated \$6 million of that is in the Debt Service fund which is to be used for future projects. Mr. Menard asked of the \$6 million how much is General and how much is the Sewer adding they should know that number as they go into the Budget.

#### ENGINEER'S REPORT

Mr. Pockl stated with regard to the Capital projects, they completed two Concept Plans for Snipes athletic fields to address the comments in their recent review; and they submitted Plans and Budget cost estimates to the Township at a meeting on July 12. He stated based on comments they received at that time, they have some adjustments to make to the Concept Plans; and they anticipate presenting these to the Public in August.

Mr. Pockl stated with regard to the 2018 Township Road Program, Bid opening was June 19; and the thirty-day Contract review period is up tomorrow. He stated they anticipate start of construction within the next few weeks.

Mr. Pockl stated with regard to Woodside Road bike path, they have provided the Township with a Concept Exhibit Plan for pursuit of Grant funding; and they are scheduled to begin survey work next week. He stated he has discussed traffic coordination with Chief Coluzzi.

Mr. Pockl stated with regard to the Dog Park, they issued a review letter on June 20; and there are several concerns where the Dog Park construction did not meet Township Code. He stated they issued an Action Item Plan to the Township on July 3 to address those items.

Mr. Pockl noted the Marble Court basin outfall structure was recently damaged and needs replacement. He stated they presented three quotes for the new outfall structure, and were given direction to proceed from the Director of Public Works; and they are coordinating a Contract to award to A.C. Miller in the amount of \$9,950.

Mr. Pockl stated with regard to the Satterthwaite House, they issued a final environmental assessment report; and they found several environmental hazards that will need to be remediated prior to disturb and repairs to the structure. They estimated hazard remediation costs in the amount of \$172,000.

Mr. Pockl stated with regard to Dobry Road townhomes which is across Dobry Road from the Caddis Healthcare development, they reviewed a revised Sketch Plan to eliminate potential Variances concerning setbacks from protected resources. He stated they are still reviewing their revised Sketch Plan for conformance with the Open Space requirements, and they anticipate having a report to the Township by the end of the week. He stated they completed two Grading Permit reviews for 995 Plowshare Road and 1135 Gary Drive.

With regard to construction projects, Mr. Pockl noted Regency at Yardley on the north side Phases IV through VII, they are inspecting ongoing work to address the punch list item. He stated for Regency at Yardley on the south side Phase III through V there is ongoing construction. Mr. Pockl noted Brookshire Estates, and he stated they met with the Homeowners Association and the developer on June 14 to review outstanding landscaping requirements; and they are working with Township staff to address this issue to the satisfaction of the HOA. Mr. Pockl noted Oakmont/Moon Nurseries, and stated there is ongoing work to address punch list items. He stated they have received several complaints from the HOA concerning the lack of top soil and failure of grass to germinate, and their inspections indicate most lawn areas have grown to over 50% coverage. He stated since this is not the growing season, they will continue to monitor this and hold the developer's escrow money until establishing healthy lawns throughout the

development. Mr. Pockl stated at Estates at Sandy Run Road, there is ongoing construction for Lot #2. He stated they issued a Temporary Certificate of Occupancy for Lot #7. He stated a full lawn needs to be established for that property as well. Mr. Pockl stated at Scammel's Corner the developer is to convert the stormwater systems to permanent stormwater management systems, and the developer will clean up areas throughout the development that have debris. He stated they met with the developer to review As-Built Plans for the basins and some adjustments will need to be made to the final grades of both the bottoms of the basins and the emergency spillways. Mr. Pockl stated Towering Oaks has ongoing construction for Lots #2 and #6, and there are no issues.

#### CONSIDERATION OF PRELIMINARY SUBDIVISION AND LAND DEVELOPMENT PLANS OF CADDIS HEALTHCARE REAL ESTATE SENIOR LIVING FACILITY

Mr. Edward Murphy, attorney, was present with Mr. Justin Ginotti, engineer and Mr. Eric Rider from Caddis. Mr. Murphy stated the review process was initiated last December when the first Sketch Plan for the project was submitted. Mr. Murphy stated they then had their first meeting with the Township's Planning Commission in January and received a lot of public comment and input about the Plan. He stated the Plan was subsequently revised and re-submitted to try to eliminate all the originally-identified Variances that were contemplated in the first Plan. He stated they met with the Board of Supervisors in late February to review the second Sketch Plan, and again received public input. He stated they then further revised the Plan and made the first formal submission of the Land Development Plan in March. He stated they received a series of reviews from the consultants, and they met for a second time with the Planning Commission in late May; and at that meeting they received their recommendation of approval of the Land Development Plan and the Lot Line change. Mr. Murphy stated they elected to defer meeting with the Board of Supervisors until they had submitted a further revised Land Development Plan to address Mr. Pockl's and others comments. Mr. Murphy stated this revised Plan was submitted in June which has triggered the most recent July 5 review letter.

Mr. Murphy stated Mr. Pockl's format in issuing reviews is different from the prior engineer's, and he has identified the original comment and then indicates whether or not that comment has been addressed or not. Mr. Murphy stated in almost every respect the initial comments that were contained in his first review letter have now been addressed. Mr. Murphy stated there are some items that are "will comply."

Mr. Murphy stated there are other issues to be considered including the situation involving Dobry Road. He stated they all acknowledge that Dobry Road needs to be reconstructed, and the developer understands their obligation under the Ordinance to make improvements on their half of the road along their entire frontage. He stated they understand that there is also the requirement of the Traffic Impact Fee; however, what is being asked of the developer to consider in terms of reconstructing the road from its intersection with Oxford Valley all the way back 1,800' to the Railroad tracks is considerably more than what their obligation and their Traffic Impact Fee would require. Mr. Murphy stated they are prepared to meet with the Township staff and work on this and other cost issues that they need to factor in. Mr. Murphy stated they had discussions with the developer across Dobry Road who also has a pending project which Mr. Pockl referenced in his report this evening who will also be a contributor toward the solution. Mr. Murphy stated with the cooperation of that developer, Mr. Scanlon, they propose to provide a solution which will require staff discussion as well.

Mr. Murphy stated there has been a question raised about where sewers are coming from, and this morning he had a discussion with the solicitor for the Bucks County Water and Sewer Authority. Mr. Murphy stated Dobry Road has been the unofficial dividing line between sewer flows that would go to Bucks County Water and Sewer Authority or to Morrisville, and it appears as of this morning that the direction they received from Bucks County Water and Sewer Authority is they should go to Morrisville. Mr. Murphy stated they should have an official answer shortly which will enable them to firm up their Plans. Mr. Murphy stated he feels that will be able to be resolved between Preliminary and Final.

Mr. Murphy stated that there has repeatedly been a request that they look at the location of the generator and the dumpsters. He stated the Plans they are prepared to implement would relocate both of those items about 130' to 150' further into the site away from the common boundary line along the western side; and this location was shown on the Plan.

Mr. Murphy stated on July 12 they received a review letter from the traffic consultant and a separate review letter from PennDOT. Mr. Murphy stated an item that has been the subject of discussion is whether or not there would be support for a right-in, right-out drive at a location Mr. Murphy showed on the Plan on Oxford Valley Road. Mr. Murphy stated that area would cross an area of property that is owned by the Township that was condemned by the Township a number of years ago. Mr. Murphy stated that area is 186 square feet. Mr. Murphy stated both the Township's traffic consultant and PennDOT encouraged the establishment of that access point and that movement; and PennDOT has recommended not only right-in and right-out, but also encouraged left in, but not left out. Mr. Murphy stated this is an issue that the Board needs to discuss.

Ms. Tyler asked about the open space calculations. Mr. Murphy stated they are compliant. Mr. Ginotti stated they are supplying a significant amount of wooded area that is an individual parcel right now, but it will be consolidated as part of this Plan. He stated they are preserving the entirety of the woodlands with the exception of the small disturbance for the road coming through. He stated there is a wetland area there as well as the buffers that will be 100% preserved in compliance with the Ordinance. He stated the disturbance of the woodlands is within the requirements of the Natural Resource Protection standards.

Mr. Pockl stated there is a list of Waivers being requested. He also noted that there is a Zoning issue as Section 278 Part E1A states that “parking spaces shall be 10’ wide by 20’ deep unless otherwise permitted by the Board of Supervisors.” Mr. Pockl stated the Plans show 9’ by 18’ parking spaces. He stated larger parking spaces would create more of a disturbance within the woodlands and possibly within the wetlands so they have reduced the size of the parking spaces. Mr. Pockl stated if that is permitted by the Board of Supervisors, a Variance for that would not be required. Mr. Grenier asked if the handicap spaces are to Code, and Mr. Pockl stated they are to Code and ADA compliant. Mr. Ginotti stated they actually provided the 5’ aisle on the passenger side of each handicap stall as well.

Mr. Murphy stated with regard to the Waivers, the first one is one they request regularly and which is typically supported which is not to require twenty-five full sets of the Plans. Mr. Grenier stated they are in favor of that, and Mr. Murphy stated the Board should consider changing the Ordinance to that effect. Mr. Murphy stated the next item is not to require submission of the Conservation District Application with the Preliminary Plan adding typically they would prefer to get the initial round of comments back from the Township consultants before submitting their first Application to the Conservation District. Mr. Grenier stated this would mostly be driven by stormwater design so they would not have to redo it.

Mr. Murphy stated the Ordinance requires they need to provide detailed description of all features of all properties within 200’ of the site. He stated typically the way they address this is to provide a more current aerial photograph which is typically approved subject to the proviso that if there are specific site issues that come up during the review that would require something more detailed, and they would agree to provide that. Mr. Murphy stated he believes Mr. Pockl’s office supports these Waivers. Mr. Grenier asked if the most recent aerial provided shows at least 200’ from the site, and Mr. Murphy stated it does.

Mr. Murphy stated a partial Waiver is being sought to undertake the scope of the Traffic Impact Study as requested by TPD. Mr. Murphy stated typically at the outset of a project they meet with the Township’s consultant who dictates the scope of the Study. Mr. Murphy stated in this case they met with TPD who recommended a

certain scope of Study which may not be completely in agreement with the Ordinance requirements. He stated the developer is doing what has been requested of them by the Township consultant.

Mr. Murphy stated they are requesting a Waiver to not require pavement cores for all abutting roadway; and since Dobry Road will have to be redone, there is little point to doing core samples.

Mr. Murphy stated they are requesting a Waiver to not do the EIA. Mr. Ginotti stated they do not feel the use will cause much burden to the Township, and will actually be a benefit. He stated the way the Township's report is structured, it is very intensive for Residential and other types of uses which put a strain on Townships to determine where there could be impact; however, for this use they do not see the value of providing this report. Mr. Murphy stated the EIA is not just looking at trees and other things which they have done, but it also requires looking at taxes, impact on Schools, etc. He stated all the true environmental impacts have been assessed. Mr. Grenier stated Mr. Ginotti had indicated this project would be more of a benefit to the Township, and he asked that he define the benefit. Mr. Ginotti stated there will be no burden on the Schools with this use. He stated they will also be improving the road, which is deficient, and the infrastructure around it. He stated they do have a Natural Resource Protection Plan included in the Plan set which identifies full compliance with all the natural resource restriction requirements.

Mr. Murphy stated Paragraph 67 makes reference to the desire to follow the recommendation of Mr. Pockl, Mr. Majewski, and TPD about the design criteria for the reconstruction of Dobry Road. He stated they are proposing to reconstruct the road with a cartway width of 26' and a reduced right-of-way since they are trying not to adversely impact the historic home that is along Dobry Road now which is very close to the existing cartway. Mr. Grenier asked the overall length of Dobry Road that they will reconstruct, and Mr. Murphy stated it is 1850' from its intersection with Oxford Valley Road back to the Railroad tracks. Mr. Murphy stated the cost for that is close to approximately \$500,000. Mr. Grenier asked if this is required by the Township Code, and Mr. Murphy stated it is not. He stated the developer is obligated to do the improvement of half the road width to their center line along their property frontage and then pay the Traffic Impact Fee which has been calculated to be approximately \$70,000. He stated even if the Township proposed to divide the \$500,000 in half between the other developer and themselves it still far exceeds the Traffic Impact which is why they need to meet with the Township to discuss this. Ms. Tyler asked what would be the cost of the road construction for which the developer would not traditionally be responsible for. Mr. Murphy stated it would probably be approximately \$250,000.

Mr. Murphy stated the next Waiver request is one that has typically been requested and granted over the years, and Mr. Pockl has indicated that he supports minimized expanding of the impervious areas so as not to push up against other adjacent properties. Mr. Murphy stated the next Waiver is not to require refuge islands within parking areas since to comply would push the parking further out into other areas of the site which are presently green.

Mr. Murphy stated Item #70 deals with the tree disturbance fee. He stated in this case they have so far calculated that the cost of compliance with the Ordinance is more than \$87,000. He stated there is no opportunity to plant any more trees on site so whatever is done would have to be done off site. He stated they will discuss the dollar amount as they proceed.

Mr. Murphy stated the next Waiver relates to storm pipe less than an 18" diameter, and he assumes they would not need something that big to support whatever flows they are carrying. Mr. Ginotti stated the road sits low relative to the discharge point, and there are some points on the site where they cannot get a full size 18" pipe as required by Ordinance. He added a 15" pipe carries the one hundred year flow. He stated there is no safety issue, and it is strictly a cover issue. He stated they cannot comply with the 2" drop. Mr. Ginotti stated on site they are at ½% which is the minimum; and as they go down to Dobry Road to the discharge point, he believes they are at .4% which is less than the minimum, but the road is less than the minimum. He stated they are using elliptical pipe and minimum coverage. He stated the issue with the road is that there is poor drainage, and the water sits on the shoulders of the road. He stated they had discussions with the Public Works Director and indicated that a pipe with low slope would be better than no pipe at all. He stated positive drainage does make it down to the stream and it has capacity.

Mr. Ginotti stated there is an additional Waiver that was indicated in Mr. Pockl's letter as #42 where the Ordinance requires a minimum of seven test pits for infiltration; and they have provided six because they did a geotechnical investigation of almost twelve borings, all of which indicated the exact same profile throughout the site. He stated they did six in the areas where they tried to get the best infiltration rates possible, and there was no need to go further down so they are asking for a partial Waiver for that one test pit. He reviewed the locations where they did the test pits. Mr. Ginotti noted on the Plan where they will have a bio retention area and there will be curb cuts which allow the water to flow into the bio retention area for filtration and water quality benefits. He showed where it gets discharged around the site to an underground stormwater facility which is for volume control and rate control. He showed another aboveground bio retention area with the same water quality benefits which allows them to meet requirements.

He showed on the Plan an area where they are getting a small amount of infiltration on the surface; however, it is the only area on site where it provided any type of infiltration. He showed on the Plan the square area where the building is, which has layers of clay which had no infiltration capacity at all. Mr. Ginotti stated in the area where they found infiltration, they provided the maximum amount to their ability. He stated this was submitted already; and they passed Administrative Review, and they are in for Technical Review now and waiting for the first round of comments.

Mr. Pockl stated the infiltration rates they used for the bio retention area between the parking areas was a conservative number and they actually did two test pits in that area, and one of the infiltration rates was four and a half inches per hour and the other was .6 inches per hour. He stated they were taken at two different elevations. Mr. Pockl stated the elevation below the bottom of the system was at .6 inches per hour, and that is the one they used in their design calculations so they were conservative in their approach to using that number. Mr. Pockl stated they are also proposing soil amendments within that area and that will help the infiltration within the bio retention areas. He stated he would support the partial Waiver request.

Mr. Grenier stated O & M can sometimes be an issue with underground systems, and he asked if there is an O & M Plan in place. Mr. Ginotti stated the Township requires an O & M Agreement. He reviewed what they will have in place. Mr. Pockl stated they will meet NPDES requirements, and he reviewed what they propose to meet those requirements. Mr. Pockl stated he is going to do more research on the type of filter that they are proposing to use since he is concerned about the maintenance required, and there are other ways they could filter the water before it gets into the underground system. Mr. Grenier stated he would be concerned about an insert being put in that could get filled up with siltation. Mr. Ginotti stated the systems are DEP approved, and they have overflow in case of being clogged so they will not pond or back up into the building. Mr. Ginotti stated the option they are proposing is more economical and easier from a maintenance standpoint as you can physically see the cartridge as opposed to climbing into a structure. Mr. Grenier stated he is concerned about long-term O & M and ease of use. He stated he recognizes that this is a business, but he wants to make sure there is a plan in place.

Mr. Lewis asked if they received indication that they will get the EDUs required, and Mr. Murphy stated Morrisville does have the capacity to serve them. Mr. Lewis asked about Bucks County Water and Sewer, and Mr. Murphy stated as of today, they are not going there; however, if they were required to go there, they were told that they will be able to identify capacity. Mr. Murphy stated it is much easier if they go to Morrisville. Mr. Lewis noted the Fire review letter where there was an initial concern, and Mr. Murphy stated that has been resolved.



Mr. Grenier asked with regard to Bucks County versus Morrisville, does that change the Utility Plan and their design; and Mr. Ginotti stated it would change their connection point but does not change their utility design and sewer will still come out of the building at the same location, and it is just a matter as to which way it is directed. Mr. Murphy stated one month ago they provided Bucks County with an alternatives analysis Mr. Ginotti had prepared identifying if they were to connect to the Morrisville system where that would be, and it is across the street from Oxford Valley Road at the entrance to Makefield Quarters. He stated there are other much longer connection points to Bucks County. Mr. Murphy stated the threshold question was does the system include the area on the south side of Dobry Road, and the answer he received today was that they do not think it does. Mr. Murphy stated they previously spoke to Morrisville who confirmed their ability and desire to provide service.

Mr. Walter Madden, 104 W. College Avenue, asked that in their future meetings when there are a number of residents present, the Board should have these issues come up earlier. Mr. Lewis stated they have a structure to their Agenda and they have always had Public Comment up front which he tries to manage in a constructive manner; however, that typically takes up a fair portion of time. He stated they also try to balance the Agenda with the way it is structured. Mr. Madden stated he feels the Supervisors have done a great job over the twenty-five years he has been here balancing the needs of the community, and he feels some of those needs will be fulfilled with this project. He stated the land is Zoned Commercial and eventually something will be put there, and he feels it would be better to have this project there than a Wawa or a strip shopping center or more housing that will burden the Township with the costs of Schools, services, etc. He stated there will be no increase in Pennsbury School taxes because there will be no children here, and the Township will receive Real Estate taxes from the new project. He stated this is a win/win for everyone trying to maintain the Township the way it has always been. He stated it looks like a nice facility that they will be building.

Mr. Fred Falk, 253 Truman Way, stated at the last Planning Commission meeting there were concerns raised by the public and the Commission; and there was a request for follow up based on some of the questions particularly from the Commission members. He stated he has not seen anything regarding that. He stated one of the issues raised was the way the facility is oriented where the loading zone is by the Residential community, and they also discussed the trash disposal area and the generators as well. He stated the Applicant was asked to analyze flipping the project around and having the parking on the south side and the other services on the north side so that it would not adversely effect the residents who back up to this property. He stated they have not seen anything that indicated they looked at this

other than the trash being moved. Mr. Falk stated he believes on the Plan the generators are in the exact same place they were when they saw this previously at the southwest corner of the building. He stated those who live behind this proposed facility do not like the fact that there will be a roadway going behind them with a loading zone that will have idling trucks, etc. that will effect their quality of life. He stated if the parking were there it would just be people pulling in and out, and they could flip this Plan around.

Mr. Falk stated with regard to the traffic, the comment was made that PennDOT recommended not only a right-in and right-out, but also left-in as well; and Mr. Falk stated Regency at Yardley has a right-in/right-out now at their north entrance, and you regularly see people who do not abide by the right-in/right-out, and you see left turns in all the time and people who erroneously make left turns out. Mr. Falk stated during peak traffic times or whenever a train has come through and stopped traffic or the light at Big Oak Road/Oxford Valley Road intersection causes a back up of traffic, there is very high-speed traffic coming through. He stated when someone erroneously makes a left turn either in or out of Regency, it is very scary. He stated during the School year there are School buses going by and traffic is speeding through this area. He stated adding another right-in/right-out is not going to solve any problems, and it will create more given not only this project but also the housing community across the street from it and the housing community that will be going in on Big Oak eventually. He stated there is also the Dunkin' Donuts and child care center proposed, and there will be a tremendous increase in traffic in this area which is going to cause people to want to get through as fast as they can. Mr. Falk stated with that in mind he had suggested that they have a center median put in Oxford Valley Road that would prevent illegal left turns out of the area or left turns in so that it adds to the traffic safety of the area not only where they are proposing the road but it should also extend to where the Regency at Yardley right-in/right-out is as well.

Mr. Lewis stated he feels they need to consider the enforcement issues. He stated with regard to a median, this was not recommended by TPD. Mr. Murphy noted Paragraph 6 of the PennDOT letter; and he stated there would be a "pork chop." Mr. Falk stated they have that at Regency at Yardley and it does not prevent anyone from making the erroneous turns. He stated at their south entrance there are very low dividers in Oxford Valley Road that help the flow of traffic for the left turns that are being made either in or out; and he is suggesting that they consider for the safety of the drivers and School buses that they make it a little more difficult for someone to erroneously get in trouble in this area.

Mr. Pockl stated this came up at the Planning Commission meeting, and he believes that the Planning Commission discussed the center line median; and their concern was that a lot of the properties on the eastern side of Oxford Valley Road would not

be able to access their driveways if they were traveling southbound on Oxford Valley Road if a median was there. Mr. Falk stated it is only about three or four residents who would be effected by that as opposed to the general safety and well being of everybody else in the Township that uses that road. Mr. Grenier stated it is easy to turn around the existing “pork chop” at Regency, and they should make sure that with the design for the Applicant’s “pork chop” it is not easy to make that turn. Mr. Murphy stated they could work with PennDOT to see if they can enhance it. It was noted that PennDOT provided a sketch which is more substantial than what they have at Regency.

Mr. Grenier stated with regard to the generator and dumpsters, the Applicant indicated that the dumpsters have been moved. Mr. Murphy stated it will be shown as moved on the Final Plan. Mr. Grenier stated they are also moving the other features that were in the left corner to an area near where the dumpsters will be.

Ms. Tyler asked about the loading dock and the suggestion about flipping the building. Ms. Tyler stated the Applicant represented that the loading dock will be used twice a week; and if they were to put the parking there instead, there would be cars coming out and doors slamming. Mr. Falk stated the cars would be parked there and not idling. He stated they were also told that this is a very low-traffic area so they would be getting people coming in and leaving work. He stated he would prefer hearing car doors slam than have a diesel truck idling waiting for the loading bay to be open.

Mr. Grenier asked if there is an Ordinance about idling vehicles, and it was noted that is part of State law. Mr. Truelove stated he could look into this; however, other than School buses which are an exception, he believes it is just a matter of a few minutes.

Mr. Pockl stated while it does not show in the Plans, the change in elevation from the driveway surface to the edge of the property line in that area is probably 8’ so the driveway will be 8’ lower than the ground at the property line. It was noted it is a range and not 8’ uniform. Mr. Grenier asked about the buffer and what type of landscaping they are putting in. Mr. Ginotti stated it is the Township’s most stringent buffer which is Class I. He stated 25’ wide is the required buffer area; however, since they have a 37 ½’ parking lot setback, the buffer is actually 37 ½’ from the Applicant’s property line to the edge of curb of the access road around the facility. Mr. Ginotti stated it is a mixture of evergreen and deciduous trees and shrubs. He stated it is the Township’s most restrictive buffer requirement.

Mr. Truelove stated with regard to idling, for diesel powered vehicles above a certain gross weight, they cannot idle for more than five minutes in a sixty-minute period. Mr. Falk asked if it would be incumbent upon the residents to report it if

they witness any idling longer than five minutes, and Mr. Truelove agreed adding that it would also be posted. Ms. Blundi stated it is similar to some of the issues that have been discussed earlier this evening with the Airbnb and the train horns/bells. Mr. Falk stated if they were to flip the building around and it was just parking, they would not have to report anything. Ms. Blundi stated at earlier meetings, there were residents present who indicated there was too much parking there which should be moved so they are trying to strike a balance.

Mr. Falk stated he understands that there will be a memory unit as part of this, and those residents will be living on the west side of the building on the first floor. He stated he also understands that there needs to be a completely secured area for the protection of those residents. He stated if the dumpsters are out beyond that side, he feels they will be accessed through a gate; and he asked if there is a gate there, does that not negate the ability to provide a secured area for the memory unit since the gate could be erroneously left open. It was explained how the memory unit will be secured.

Mr. Falk stated he has asked in the past to see elevations, and they previously came with possibilities; but he would like to get a better idea of what this will look like. Elevations were shown this evening. Mr. Falk asked if the air conditioning units will be on the roof or somewhere around the building, and the location was shown to Mr. Falk on the Plan.

Mr. Alan Dresser, 105 E. Ferry, stated he is a member of the Environmental Advisory Council. He stated in April the EAC made some comments on a previous version of this Plan which mainly focused on stormwater management. Mr. Dresser stated there are three stormwater structures planned – the bio retention to the east of the building toward Oxford Valley Road, the underground basin, and the above-ground detention basin between the building and Dobry Road which are in poor drainage soils as far as water infiltration. Mr. Dresser stated that was borne out when they did the infiltration testing. Mr. Ginotti stated there are a series of requirements by Ordinance – volume control, water quality, and rate control. He stated at the bio retention area they did obtain some serviceable infiltration rates and that is being used for the volume reduction requirement. He stated the underground basin is a detention basin and is not being used as an infiltration basin and it will be a fully-lined system where they have an outlet control structure which will serve as rate control in order to meet the Township requirement of peak rate reduction from one storm to the next. Mr. Ginotti stated the bio retention basin has an amended soil mix which DEP now allows so that there can be a percentage of volume reduction obtained from the stormwater filtering through an under drain into an amended soil area which is slowly released out. He stated this is a newly-approved DEP concept. He stated the areas that are poorly-drained soils are not being used for infiltration, and they are being used for rate control.

Mr. Dresser stated there are areas of the site that do have good drainage/good infiltration where the bio retention is, and the grassy area toward Dobry Road has good soil. Mr. Dresser showed this grassy area on the Plan. Mr. Ginotti stated they are not proposing any improvements on the existing Lot that is to remain so there is no stormwater requirement for that Lot. He stated the area where they are proposing infiltration, they are taking an equivalent area of parking lot area and filtering it through the area which is a Best Management Practice and that will serve as their volume reduction and water quality component. He stated they want to maximize the good infiltration on the site.

Mr. Dresser stated SALDO states: “All major Subdivisions and Site Plans will conduct a soils subsurface investigation prior to completing a lay out of a Development Plan.” Mr. Dresser stated they could have planned more of their stormwater facilities in the area he noted on the Plan, but they did not. He stated they did the infiltration testing on March 5 of this year and submitted a complete set of Plans eleven days later.

Mr. Dresser stated post-development run off from a site cannot be higher than the pre-development run off from the site for the two-year storm and less. He stated the two-year storm is 3.36” of rain in twenty-four hours. Mr. Dresser stated he looked at the calculations and after development this site will double the amount of stormwater it generates; and of that increase, they will infiltrate approximately 14%. He stated the increase is approximately 240,000 gallons, and they will infiltrate 14% of that and about 86% will eventually run off site into a ditch along Dobry Road. Mr. Dresser asked why the Township is allowing them to do this since the volume control is one of their key Stormwater Management Ordinances. He stated he understands the slow release concept is new, but when he contacted the Harrisburg office, they did not know about it; and it came out of the Southeast PADEP office. Mr. Dresser asked Mr. Pockl if they are holding the water and releasing it between twenty-four and seventy-two hours, and Mr. Pockl agreed. Mr. Dresser asked how that is different from any other requirement from a detention basin, and questioned why that is considered slow release as it is the standard procedure for any detention basin. Mr. Dresser stated now they can send it off site, and it seems that they are going backwards. Mr. Pockl stated they are meeting the rate control requirements. Mr. Dresser stated he is referring to the volume, and they are not meeting the two-year storm requirement. Mr. Dresser read from the document that Mr. Pockl had provided him in this regard.

Mr. Dresser stated the EAC had asked about pervious paving for the parking, and they did not get an answer for that; and that may be a way for them to reduce their stormwater. Mr. Dresser stated he feels they should improve their stormwater management, and the Township should not be allowing 86% of the stormwater generated from this project to flow off site.

Ms. Tyler asked if the Plan complies with the Township's Stormwater Management Ordinances. Mr. Dresser stated the document he has, indicates that if they do the slow release, they get credit for the water they release slowly as not being released off site; and he does not understand that. Ms. Tyler asked the Applicant if they are in compliance; and Mr. Murphy stated they are, and he feels Mr. Pockl will confirm that the Plan satisfies the Ordinance requirements. Mr. Ginotti stated they have used the slow-release concept in many other jurisdictions that DEP reviews and it is an accepted practice. He stated they also meet the Township requirements for volume reductions. He stated they are reducing flows from pre to post. Mr. Pockl stated DEP is allowing this as they are holding water within a detention facility with plantings and amended soils. He added that just because their testing did not show an infiltration rate, it does not mean the water will not drop a level over the seventy-two hours especially when you consider the plantings that will be in and around the bio-retention area. He stated there are also amended soils so there will be greater voids created compared to what is there now. He stated there will be a certain amount of infiltration into the amended soils and the stone that is around the pipe that is the under drain that is not accounted for in their volume calculations. He stated DEP allows it and it is an accepted practice.

Mr. Dresser stated he feels there are other ways they could reduce stormwater volume before going to this other method since they are going to get run off from the site.

Mr. Albert Scalone, 247 Hoover Way, stated his home is behind the lower right corner of the building; and his principal complaint is with the access road behind the building because it will create noise and disturbance. He stated the other aspect is the main entrance to the facility and the cars that will be coming in with the headlights directly into his kitchen and living room. Mr. Scalone stated the developer is also taking credit for a great deal of acreage to the east area; and as a result of that, the building is a very large building in a very small buildable area. He stated this then forces the road to go behind it, and they cannot get an exit road off of Dobry. He stated he feels this will reduce their quality of life and reduce the property value of his home.

Mr. Tony Kehoe, 476 Liberty Drive, stated he lives approximately two blocks away from this project; and he asked what will happen during a one hundred year storm. Mr. Pockl stated they are required to meet the run off rates from what is there now, and their calculations indicate 39 cubic feet per second exiting the site now in a hundred year storm. He stated they are reducing that by 10% because the water they are capturing is being retained on site and is flowing out over a course of three days as opposed to ten to twelve hours. Mr. Kehoe stated those downstream will therefore be better protected, and Mr. Pockl stated based on the analysis and standard stormwater calculation practices, they will. Mr. Kehoe asked if their

analysis will be published anywhere or will he have to request a Right-To-Know to look at it. Ms. Tyler suggested that he meet with Mr. Majewski. Mr. Truelove stated this is not a Township-created Record, and is a submission which can be made available.

Mr. Mitchell Goldberg, 249 Carson Way, showed the location of his home on the Plan. Mr. Goldberg expressed concern with the trucks and also the location of the proposed road from the entrance road at Regency at Yardley. He stated he had previously suggested that they flip the location of the building or move it closer to Dobry Road. Mr. Goldberg stated he they have “shoehorned in” this large facility into the area which will result in “unintended consequences.” He stated this should not be in the area where there are a lot of tax-paying homeowners.

It was noted that the maximum building coverage for this Lot is 35%, and as shown on the Plan, the building is only 19.4% so they are well below this. Mr. Lewis stated the original Plan was also to have a three-story building, and they have cut a floor off so they are below the 35’ height restriction. It was also noted that the maximum impervious surface coverage permitted is 65%, and they are only at 47.5%. Mr. Grenier stated this is a C-3 Zone, and he asked if there is anything they are not meeting with regard to setbacks, volume of building, or parking; and Mr. Murphy noted there is not.

Mr. Lewis stated there was another entity actively looking at this property with a significantly higher impact to the community which would have generated a lot of traffic and large negative externalities in terms of refuse, noise, and other risks. Mr. Lewis stated they were aggressively going after this property and are not now. Mr. Truelove agreed there was another project that would have been a permitted use and would have potentially had a great bigger burden on the area and on the neighboring properties.

Mr. Murphy stated at the Planning Commission meeting in May he had commented that the property has been Zoned C-3 for probably thirty years, and this proposed use, if it proceeds, enables the Township to “dodge a bullet” since there is a wide range of far more impactful Commercial uses that are presently allowed today than this facility. Mr. Murphy stated it has been his experience that the use they are proposing provides a natural bridge/buffer between more traditional Residential and other non-Residential uses. He feels this will be proven to be a very good neighbor as are the other facilities like this in the Municipality. He stated this will also provide sizable ratables and is low on the scale of impacts compared to what otherwise would have been permitted here.

Mr. George Dodelin, 249 Hoover Way, asked if the dumpster will also be used for food waste; and it was noted it will. Mr. Dodelin asked if there will be any sort of protection against insects, rats, etc. that would normally be drawn to a dumpster with food waste in it; and it was noted that the trash will be removed regularly. It will also be covered. Mr. Grenier stated previously when it was to be located in the corner, there was a “decorative wall;” and he asked if this is still being done. An architectural drawing of the dumpster enclosure was shown. It will blend in with the architecture of the building and the enclosure will be clad with the same architectural stone as the building so that it blends in. It will be fully fenced from the outside, and there will be a lid on the dumpster.

Mr. Dodelin asked how medical waste will be handled, and it was noted that they will follow State law. It was noted medical waste and regular trash/garbage cannot be co-mingled, and it must be disposed of by licensed companies. Mr. Dodelin asked if there will be trucks coming to pick that up as well, and it was noted that was correct. It was noted they are not a nursing facility so they will not be generating the volume of medical waste that other facilities do. Mr. Lewis stated their residents could have incontinent issues. Mr. Dodelin stated that there could also be syringes. It was noted they are not a medical facility where they are generating a huge volume of medical waste.

Mr. Dodelin stated his property abuts their southern boundary and currently there are several large trees there and other shrubbery, and he asked if that will remain. Mr. Dodelin noted the location of his home on the Plan, and Mr. Ginotti stated most of that shrubbery is located on Mr. Dodelin’s property which they will not touch. He stated the intent of the buffer they will install is to supplement existing buffers.

Mr. Rich Mccune, 249 Truman Way, stated he has lived here for over sixty years, and he worked for the Corps of Engineers. He stated the Remington engineers report indicated on Page 2 “The total parcel does not comply. The Lot is an existing non-conforming Lot and a Variance may be required.” Mr. Mccune stated the Applicant is defining the proposed development as a nursing home, and he asked when it became a nursing home. Mr. Murphy stated that issue came up approximately twelve months ago, and under the Township definition of a nursing home, an assisted-living facility as they are proposing fits that definition. He stated as such it has a five-acre minimum requirement. Mr. Mccune stated the letter he referred to is dated July 5, 2018 from Remington & Vernick Engineering. Mr. Mccune stated when they use the words “nursing home,” it eliminates the requirement for an eight-acre plot of property. He stated a nursing home only requires five acres of property.



Mr. Mccune stated they discussed this project in February, and Variances are required because you need eight acres to put in a 98-bed facility. He stated Variances are needed to go down to 6.06 acres to do this facility. He stated the letter dated July 5 refers to 200-68.A which indicates “a nursing home is permitted with a minimum Lot area of five acres. Since Lot B is proposed with a net Lot acreage of 6.06 acres, no Variance is required.” Mr. Mccune stated they need 8 acres, and they need a Variance to get 6.06 acres. He stated “nursing home means 5 acres.”

Mr. McCune noted a specific piece of property on the Plan. He stated a former Supervisor who served twenty-five years ago advised the Board of Supervisors and the Zoning Hearing Board that the property was voted on by the Supervisors and it cannot be violated. He asked if they took a vote that the property can be used. Mr. Truelove read from the only document that refers to that particular piece of property which was filed in the Court of Common Pleas in Doylestown which is a Declaration of Taking dated May 18, 1994. He stated nothing is referenced in the document about open space. Ms. Tyler stated the Township acquired that land for highway improvement. Mr. Mccune stated twenty-five years ago the Supervisors voted that property would not be used as it is right now, and that has not changed. Mr. Truelove stated that is not the Record that was either in the Court or any Minutes of the Township that have been reviewed. Mr. Mccune stated he feels they should get a surviving member of the Lower Makefield Board to discuss that. Ms. Tyler stated they are bound by what exists in the Record, and they did look into this deeply with Mr. Majewski who verified it. Ms. Tyler stated they took what the former Supervisors stated very seriously, they then investigated it, and it turned out that it was simply a right-of-way for the building of the road. Ms. Tyler stated she is satisfied with what the Township staff has provided to them as to the intent and purpose and restrictions on that particular piece of property. Mr. Mccune stated he would disagree, and he would like further study done and “further accuracy done,” adding they could possibly look up “some old archive Records.” Ms. Blundi stated that is what Mr. Truelove did after the former Supervisor came and stated her recollection. Ms. Blundi stated they are only proposing to go across a small piece of this, and she has been told it is 186 square feet. It was noted that it is 4 by 4 ½ by 40, and the entire parcel is .09 acres and the piece is .004. Ms. Blundi stated when the former Supervisor shared the information with the Board, they asked that the staff look into this to find anything to back up her recollection; however, it was not there. Mr. Mccune asked if they went back twenty-five years through archived Records, and Mr. Truelove stated they did. He stated the document he referred to is from 1994. Mr. Murphy stated they also went beyond that and spoke to the attorney who filed that document and got his recollection as well as to what the circumstances were when the document was signed and filed. Mr. Lewis asked the name of the attorney, and Mr. Murphy stated it was the former Township solicitor, Jeffrey Garton.

Mr. Mccune stated he still challenges the acreage requirement, and he feels that needs to be seriously looked into. He stated a nursing home is not a senior assisted-living facility. He stated a senior assisted-living facility with 98 units requires eight acres. He stated he feels Variances are required since this is not a nursing home. Mr. Truelove stated there are other facilities in the Township that are similar to this that have met the same five-acre requirement including Manor Care, Spring Village in Floral Vale, Sunrise Assisted Living, and Artis which was recently approved. Mr. Pockl stated the initial comment refers to the minimum tract size, and not the Lot. He stated this is a tract of land that is being subdivided into two separate Lots, and the tract size has to be ten acres. He stated because this is an existing non-conforming situation where the entire tract size does not meet the ten acres, that is why they stated in their initial review that a Variance may be required. Mr. Mccune stated he is satisfied that this is Preliminary review, and “a lot of Variances have to be reviewed.”

Mr. Lee Pedowicz, 247 Truman Way, stated the print does not go far enough to show that the third right turn lane will run into an entrance into Regency which will create problems and should be considered. Mr. Pedowicz stated he feels the Board of Supervisors should consider an alternate use of not only the property on the south side of Dobry but on the north side as well, and he would recommend that they put in “solar cells” for a solar plant which would be an environmental benefit. He reviewed the latest solar technology and the benefits. He stated if they were to put a solar plant at this location, Dobry Road would not have to be repaved at all, and the sewer system would not have to be re-built.

Mr. Mike Quinn, 1654 Dobry Road, stated he feels this proposal is one of the “better things” that could be put here; and he does not have a problem with the Plan. He asked the Board to consider the public utilities that will be coming in and give the residents who live on Dobry Road consideration on water and sewer. He stated they will be taking a portion of his property for road widening, and he would like to be consulted on that before it is finalized.

Mr. Truelove stated the appropriate Motion would be to approve Preliminary Plans for Caddis Healthcare Real Estate Senior Living Facility, Plans dated 3/16/18, last revised 6/26/18 subject to the following:

- 1) Applicant shall comply with the Lower Makefield Township SALDO, Lower Makefield Township Zoning Ordinance, and all applicable State and Federal Ordinances, Statutes, and/or laws and where applicable receipt of all Permits, authorizations, and/or approvals from all agencies with jurisdiction including but not limited to the Pennsylvania Department of Environmental Protection and the Bucks County Conservation District;

- 2) Compliance with the Remington & Vernick Engineers July 5, 2018 review letter and any supplements to said letter;
- 3) Compliance with the Traffic Planning & Design Inc. July 12, 2018 review letter and any supplements to said letter;
- 4) Compliance with the July 12, 2018 PennDOT review letter and any supplements to said letter;
- 5) Compliance with the Lower Makefield Township Planning Commission review memorandum dated May 18, 2018;
- 6) Compliance with the Ebert Engineering, Inc. review letter dated July 12, 2018 regarding sewer and related issues and any supplements to said letter;
- 7) Compliance with the June 28, 2018 traffic review letter and note from Thomas Roche, Traffic Safety Officer Lower Makefield Township Police Department;
- 8) Full or partial Waivers are granted as listed and enumerated in the applicable Remington & Vernick Engineers review letter referenced above with the addition of a Waiver on Item #42 in the Remington & Vernick letter as Applicant will conduct six test pits as opposed to the required seven test pits;
- 9) Compliance with the fire protection letter from James V. C. Yates dated July 10, 2018;
- 10) Compliance with the Bucks County Planning Commission memorandum dated April 19, 2018;

- 11) Applicant will provide a full design of reconstruction of Dobry Road including curb, driveway, aprons, and a stormwater conveyance design from Oxford Valley Road to a stream culvert located at the approximate centerline station 16+00 and would also be responsible for the reconstruction of the entire width of Dobry Road from Oxford Valley Road to the westernmost portion of the property approximate centerline station 10+50 and connection to the existing roadway at that point;
- 12) Applicant agrees to pay a Fee-In-Lieu for cost of construction of the sidewalk for approximately 1,050 linear feet at \$125 per square yard or approximately \$72,875;
- 13) Road improvements noted above are necessary and a condition in order to secure an easement across the applicable Township owned right-of-way;
- 14) Where applicable, Applicant shall comply with all comments from the appropriate authorities responsible for the approval of the proposed utilities;
- 15) Applicant will move the proposed dumpster and generator from the southwest corner of the property;
- 16) Applicant will be permitted to install parking spaces with a 9' by 18' dimension, a Waiver from Section 200-78.E(1)(b), which requires a 10' by 20' dimension;
- 17) Applicant shall pay all required and appropriate Fees associated with this project.

Mr. Murphy stated he has an issue with being responsible for the entirety of the reconstruction of Dobry Road from the Railroad tracks to Oxford Valley, and that is not an acceptable condition tonight. He stated he would recommend to defer that until the Final Plans so that they have the opportunity to involve the other stakeholders. Mr. Truelove stated that would deal with the other property owner across the road. Mr. Truelove stated the Board should consider if they want to defer that to Final Plan.

Mr. Murphy questioned the Condition with regard to the sidewalks, and he asked Mr. Pockl for details on this. Mr. Pockl stated this is from the intersection of Oxford Valley Road to the western property line on the Applicant's property. Mr. Pockl stated the condition with regard to Dobry Road does not state that the Applicant is responsible for the full reconstruction of Dobry Road all the way down to the culvert, and it is just the full design of the reconstruction. Mr. Murphy stated they would commit to doing the design.

Mr. Murphy stated they will agree to the Conditions.

Ms. Blundi moved and Dr. Weiss seconded to approve the Motion as read by Mr. Truelove, and the Motion carried unanimously.

Mr. Truelove stated the Board met in Executive Session starting at 6:30 p.m. and items of Real Estate, personnel, collective bargaining, and litigation were discussed.

#### APPROVAL OF EXTENSION REQUESTS FOR DEDICATION OF BROOKSHIRE I, BROOKSHIRE II, AND TROILO TRACT (BROOKSHIRE III)

Ms. Tyler moved, Ms. Blundi seconded and it was unanimously carried to grant the one-month Extension request for Brookshire I, Brookshire II, and Troilo Tract (Brookshire III) as requested.

#### ZONING HEARING BOARD MATTERS

With regard to the Richard Doyle Variance request for the property located at 872 Queens Drive in order to permit the existing garage to encroach into the side yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Mike DeMaio Variance request for the property located at 479 Prince Williams Court in order to permit construction of a pool cabana to be located in an area other than the fourth of the lot farthest removed from the abutting street, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Joseph Knoll Variance request for the property located at 1208 Linden Avenue in order to permit construction of an addition resulting in greater than the permitted impervious surface and encroachment into the rear yard setback, it was agreed to leave the matter to the Zoning Hearing Board.

Mr. Chris Myer, 880 Queens Drive, stated with regard to the Variance request of Richard Doyle, had there been a third-party survey done prior to the approval of the Permit, there would have been no issues at all. He stated the homeowner was allowed to do his own measurements. Mr. Truelove stated Mr. Majewski is now aware of this, and since he is now the Head of the Department, he feels there would have been a much different result had it occurred under Mr. Majewski's oversight. Mr. Myer stated while he understands that, there is nothing in the Code currently that required a survey. He would suggest that they require any Permit being requested for a permanent structure to have a licensed, third-party do the survey.

#### SUPERVISORS REPORTS

Mr. Lewis stated the Zoning Hearing Board met and received Mr. Doyle's request for Variance and they then discussed the process around that situation to make sure that does not happen in the future. Mr. Lewis stated that happened prior to Mr. Majewski joining the Township as an employee. Mr. Lewis stated the Golf Committee met and continues to work on the extension Agreement with Spirit Golf as it relates to their management of the Course.

Dr. Weiss stated the Trenton Mercer Airport Review Panel met and are still working on ways to mitigate the growth of the Airport. He stated the Master Plan has been published, and our attorneys are looking at it with the Panel's assistance and hopefully there will be some progress in the near future. He stated the Economic Development Committee met and they will be looking into ways that they can interface with other Committees that help the Board and give their ideas on economic impacts of developments. He stated the Seniors met and are looking at ways they can grow their bank account and their calendar. He stated their membership growth is going well.

Mr. Grenier stated the Environmental Advisory Council met and discussed various activities. Mr. Grenier stated Mr. Pedowicz is working to help them get PECO to come in as part of the speaker series in the fall. Mr. Grenier stated while there is no Park & Rec Board meeting in July or August, the Road Tour will be held tomorrow. Mr. Grenier stated he attended a tour of the Lower Bucks Sewer Authority with Mr. Hucklebridge and Mr. Scott Ferrante from the Sewer Authority; and it was an information-gathering tour of that facility as we move forward. Ms. Tyler stated she has been there as well and it underscores how old our sewer-processing plans are across the board. Mr. Grenier stated while he agrees, he was "amazed" at how well run it was. He stated the Sewer Authority will meet later this month, and they will start to look at setting up meetings for the sub-committee.

Ms. Tyler stated this morning the Electric Reliability Committee went to PJM which is the company responsible for transmission of electricity throughout the region. She stated Mr. Pedowicz arranged this, and they were able to get a lot of valuable information. Ms. Tyler stated she had reported previously that she and Mr. Lewis had met with PECO; and when they have time, she feels it would be good to put the Electric Reliability Committee on the Agenda possibly in early September so that they can provide the residents information on what PECO represented to them and what is being done with regard to reliability. Ms. Tyler stated the Historic Commission was successful in obtaining some replacement grave stones for the Slate Hill Cemetery, and they are hoping for an installation in August. Ms. Tyler stated they are working with Mr. Majewski to determine how they should be installed and who will do this adding it may be an opportunity for an Eagle Scout or a Gold Award.

Ms. Blundi stated the Grand Opening of the Dog Park has been postponed. She stated work has started on Community Pride Day, and they need more volunteers. She stated they are collecting sponsors and there will be fireworks. She stated working on this is a way to give back to the community and is a short-term commitment. She stated there was a meeting of the Financial Advisory Committee and Dr. Weiss joined them at that meeting.

#### AWARD OF 2018-2019 FUEL BID

Chief Coluzzi stated this relates to the Bucks County Consortium Bid for fuel delivery for the period of August 1 to July 31. He stated they are asking the Board to award the Bid for diesel delivery to Papco Incorporated for a guaranteed delivery charge of \$0.2651 per gallon and for regular fuel delivery to Mansfield Oil Company, Incorporated for a delivery charge of \$-0.0047 per gallon. Mr. Ferguson stated that is just for the delivery charge and this Bid was done by the Consortium that all Municipalities accept. He added the market rate is set on gas minus all the taxes. Chief Coluzzi stated the negative amount for the delivery charge will lower the price of the fuel once the price of the fuel is determined. Mr. Grenier stated it is basically a credit on the fuel.

Dr. Weiss moved, Mr. Grenier seconded and it was unanimously carried to accept the awarding of the 2018-2019 Fuel Bid.

TABLE CONSIDERATION OF CONSERVATION EASEMENT FOR OXFORD VALLEY ROAD PROPERTY AND ADOPTION OF RESOLUTION NO. 2365

Mr. Truelove stated the staff and others are working through the details of what the configuration will be, and he would recommend that this be Tabled indefinitely until that is finalized.

Mr. Grenier moved, Ms. Tyler seconded and it was unanimously carried to Table consideration of the Conversation Easement for Oxford Valley Road property and adoption of Resolution No. 2365.

OTHER BUSINESS

Mr. Truelove stated he and Mr. Fedorchak negotiated a tentative Agreement with the Police Benevolent Association for a four-year Contract. He stated while there are numerous terms, he particularly noted that the four-year term includes respective increases in January 1 of each year starting in 2019 of 3.5%, 3.75%, 3.75%, and 3.75%. He stated for Pension costs, the increase would be employee contribution starting January 1, 2020 of 2.5%, 3.0%, and 3.5% respectively. He stated these would be increases that benefit the Township and show the contribution levels from the individual employees. Mr. Truelove stated this was a very amicable and positive negotiation, and the numbers are consistent with what is prevailing in Police negotiations in Bucks County. Mr. Truelove stated the Police Union, the PBA, overwhelming ratified the Agreement at their meeting Monday evening.

Dr. Weiss moved and Ms. Blundi seconded to approve the tentative Agreement with the PBA per the terms outlined in the MOU shown to the Board earlier.

Dr. Weiss subsequently withdrew his Motion.

Ms. Tyler moved and Dr. Weiss seconded to approve the Memorandum of Agreement as outlined by Mr. Truelove and as evidenced by the document provided to the Board dated July 16, 2018 with regard to the Agreement between Lower Makefield Township and the Lower Makefield Township Police Benevolent Association.

Mr. Lewis stated this will authorize the Board to sign it, and Mr. Truelove agreed.

Motion carried unanimously.



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There being no further business, Ms. Tyler moved, Mr. Lewis seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

Kristin Tyler, Secretary