

TOWNSHIP OF LOWER MAKEFIELD
BOARD OF SUPERVISORS
MINUTES – APRIL 4, 2007

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on April 4, 2007. Chairman Smith called the meeting to order at 7:30 p.m. The Pledge of Allegiance was led by Cub Scout Den 9 from Edgewood Elementary School. Mr. Santarsiero called the roll.

Those present:

Board of Supervisors: Ron Smith, Chairman
 Greg Caiola, Vice Chairman
 Steve Santarsiero, Secretary/Treasurer
 Grace Godshalk, Supervisor
 Pete Stainthorpe, Supervisor

Others: Terry Fedorchak, Township Manager
 David Truelove, Township Solicitor
 Carrie Konnovitch, Township Engineer
 Kenneth Coluzzi, Chief of Police

PUBLIC COMMENT

Ms. Cynthia Osofsky, 1308 Yardley Road, stated she is concerned with the Marazzo's development across the street from her home. She presented five photos to the Board this evening. She stated she also sent an e-mail to the Board members. She stated as can be seen in the photo, the original structure which was grandfathered as a commercial property in 1973, was a charming building which fits into the overall look and feel of Lower Makefield. She stated since she moved into her home 2 ½ years ago, Marazzo's has made substantial changes to the property. She stated during the winter months there are unsightly large trucks on the property to advertise their snow removal systems, and there are neon lights advertising the manufacturers they represent. She stated in the spring and summer there are lawn mowers on the grass way between the road and their driveway, as well as large piles of stone and mulch. She stated it is an eyesore. She stated she contacted the Zoning Office last month when it was obvious that they had torn down their small greenhouse and were constructing a very large greenhouse with a roof of a different material than the main property. She stated the new greenhouse also takes up more of the property. She stated they have also removed the arborvitae which had previously shielded some of their "garbage" from her view. She stated she did not see a Permit posted, and has learned that they have done the work without a Permit. She asked the purpose of a Permit in the Township if it is possible to get one after the work is done. She stated Marazzo's now has significantly more impervious surface than before, and the rain which would have remained on their property will now go into her basement across

the street. She asked if an owner has a structure grandfathered, does this mean that anything can go in. She stated what they have put on the property looks like a warehouse. She asked that they at least be required to replant the large trees to shield the “garbage” from view and to place excess inventory at a location which is hidden. She stated she feels the lawn mowers are being purchased by landscape companies and not homeowners so that it is business to business. She also asked that fines be assessed for them not having a Permit. She stated there must be an economic burden to them to make them responsible for totally destroying the one commercial property that is on what was a Residential street. She stated what was sent by the Zoning Office of the actions taken was a “joke.”

Mr. Smith stated when Ms. Osofsky sent the e-mail, he did contact her and asked her to come and speak at the meeting this evening. Mr. Smith stated he is concerned about this particular issue as well as the broader issue of the potential for others to do work without a Permit. He stated there must be, as he is sure there is, some effort by the Zoning Department to enforce this. He stated Marazzo’s has not had their Permits approved according to the e-mails he has seen. Ms. Osofsky asked if they have been fined. Mr. Smith asked the Township Manager what they are doing to correct this particular activity and to act as a deterrent to others so that others do not do such work without benefit of the Permit.

Ms. Osofsky stated they have put in a structure which does not fit in with the area and increased impervious surface. She stated they also have an industrial building with a bright red roof. She stated they have put this in a space that was grandfathered as a flower shop. Ms. Osofsky asked the Township Manager if they are going to make them tear it down. Mr. Fedorchak stated they are not. He stated the Township Zoning staff is bound by the procedures set forth by State law. When the neighbors advised the Township that this addition was being built, the Township staff immediately went out and determined that there was not a Permit secured. He stated State law requires that the Township Zoning Administration send out a Notice to the property owner allowing the property owner five days to take corrective action. He stated Marazzo’s immediately came in and applied for the Permit. Ms. Osofsky stated it appears that corrective action is to ask for forgiveness instead of permission. Mr. Fedorchak stated this is incorrect. He stated they have a procedure that they have to follow, and this is the same procedure that the Township would follow in Ms. Osofsky’s case if she had neglected to obtain a Permit. He stated over the course of the last two weeks there has been constant dialogue between representatives of Marazzo’s and the Township. He stated the Township has twice rejected the Permits and the building footprint that Marazzo’s representatives presented to the Township. He stated there will be another meeting tomorrow to discuss this again.

Mr. Santarsiero asked Mr. Truelove if the Low Impact Development Ordinance would apply to this, and Mr. Truelove stated it might if there are Variances which are required.

He added that this is a non-conforming use, and he feels it was approved as a Garden Center and not a Flower Shop. He stated the staff has not yet granted the Permit, and the Township has not been lax. He stated they are following the requirements they have to do. He stated Marazzo's may have to request Variances which may or may not be approved by the Zoning Hearing Board which could include Low Impact Development and structural requirements. He stated Ms. Osofsky has referred to what she feels is an "unsightly view of the roof;" and one of the issues may be whether the color or the design violate some part of the Zoning Ordinance, but noted this particular parcel is not in the Historic District so it would not be required to meet those requirements as some other structures in the Township would be. He stated they may have to meet requirements such as for signage although he has not reviewed it as they are not yet at that stage.

Ms. Osofsky stated over the last 2 ½ years it has become more Industrial. She feels Commercial is to sell to residents and Industrial is to sell to other businesses. She stated there are trucks roaring into the site at 6:00 a.m., and they also have to deal with the stench of the mulch. She stated it is very unsightly with stone and garbage piled up above the fence line and trees ripped out. Mr. Truelove stated they will have to look into the use and dimensions including impervious surface. Ms. Osofsky stated as can be seen from the pictures, the main structure of Marazzo's is an Industrial building. Mr. Truelove stated while Ms. Osofsky may feel it looks "Industrial," he is not sure that under the Code, it would meet the definition of "Industrial." He stated he feels the staff should be given the opportunity to continue to investigate this. Ms. Osofsky stated she feels it is unlikely that they will tear down the structure.

Mrs. Godshalk stated many years ago when they put in the greenhouse which was the addition, they were only allowed to do a certain small percentage of the size of the original building when the greenhouse was approved. She stated it was not offensive and it fit in with the community. She stated one of the farm businesses in the Township was told to move things from along the roadside in front of their farm, and she feels that what she is seeing in the pictures is offensive.

Ms. Osofsky stated she would like them to at least convince them to cover the structure since she does not feel they will take it down. Mr. Truelove stated the structure might have to come down, although they do not know this yet. He stated while he would not allow anyone from the Township to commit to this at this point, they are looking at the Zoning Code and other governing laws and requiring the structure to be taken down may be one of the remedies available to the Township. Mr. Smith stated at this point they are asking that Ms. Osofsky allow the process to play out, and the Township will continue to keep her advised of the status of this issue.

Mr. Santarsiero stated over the last three years he has been working with Mr. Kundra on this issue, and in 2005 he, the previous Township solicitor, and Mr. Fedorchak brought the Marazzo brothers into the Township to discuss what they were doing. He stated one

of Mr. Kundra's concerns was the mulch piles in front of the building and the fact that they were not covered. He was also concerned with the mowers in front on Makefield Road, the trucks coming in and dropping material off and the danger this posed to Sutphin Road, and the lights on at night. Mr. Santarsiero stated when they raised these issues with them, there were certain agreements from Marazzo's to make some changes, one of which was that they would install arborvitae against the mulch pile as well as more plantings around the corner of Sutphin and Makefield Roads. When they did this, the Township did not feel it was sufficient, and they asked them to put in more. He stated they also had a problem with lights on late in the evening past 9:00 p.m. Mr. Santarsiero stated the public should recognize that there is a history where they have been trying to get Marazzo's to be good neighbors recognizing that they have a commercial business in the middle of a residential area. He stated now that the Township has been advised of the issue of moving forward without obtaining Permits, they will continue to stay on top of this situation both from a legal perspective and engineering as well since the Low Impact Development Ordinance which was passed last year would put even further restrictions on what can happen on a property with respect to impervious surface.

Ms. Osofsky stated she feels the Board has an obligation to run the Township noting there are not that many businesses in the Township. She asked why it should take a resident to contact the Township about this construction, since she feels people from Zoning should be monitoring this. She stated while Marazzo's did install the arborvitae, they took them right back down, moved the mulch pile, and replaced it with stone as seen in the pictures. She feels it would be a full-time job to combat Marazzo's. Mr. Truelove stated the Zoning Office has a small staff to do a lot of work, and they work very hard covering an eighteen square mile Township. He stated it is many times citizen complaints that generate Township officials going out to see things.

Mrs. Godshalk stated they could at least immediately require them to move the stuff out of the right-of-way while they are waiting for the Permits. She stated she does not feel this would require going before the Zoning Hearing Board. Ms. Osofsky stated they have added at least six new lights including a huge one that is on all the time. Mr. Smith agreed that the Township will continue to work on this.

Ms. Virginia Torbert, Citizens Traffic Commission, invited Township residents to the second public hearing to be held on April 16th at 7:30 p.m. at the Township Building. She stated this is an opportunity for residents to voice concerns about traffic issues in the Township. The Hearing will deal with Zones 6 and 7 and these were noted on the map. This covers everyone in the Township south of Yardley and east of Oxford Valley and Derbyshire and Ramsey Roads – basically in the southeastern section of the Township. She stated the final hearing will be on May 21. She stated the mission of the Commission is to come up with a list of priority areas for the Supervisors which she anticipates they will be ready to present to the Board of Supervisors during the summer.

Ms. Debbie Wachspres, Morgan Drive, commended the Board for passing the Cool Cities proposal and encouraged greater energy efficiency in the Municipality's operation which will be determined through an energy audit comparing energy usage in prior years to usage by the year 2012. She stated she has been able to increase the fuel efficiency in her car by as much as five miles per gallon based on her driving habits. She also showed a home energy monitor which she owns which shows a real-time digital read out of her energy use, and she encouraged other homeowners to purchase such a monitor.

Mr. Dave Miller, Edgewood Village, noted an article about Edgewood Village which was in the Winter Township Newsletter; and nowhere in the article did it mention installation of sewers or water in the Village. He stated he also read an article in the Courier Times in February where it stated the Supervisors were considering selling the sewer system. He stated in the twenty years since the Master Plan of the Township mandated that sewer and water service be given to Historic Edgewood Village, he has seen three major housing developments, two major shopping centers, two to three condominium/apartment complexes, at least two major office complexes built in the Township all of which you can view while standing in the Village, and all of them have sewer and water service. He stated within the last five years, the Township paid an engineering firm to do a study on the septic and well systems in the Village; and the system showed that the systems were inadequate, but the Township did nothing about the problem. Mr. Miller stated approximately fifteen years ago the Township oversaw the installation of sewer and water service to the houses in Scammel's Corner, with the planning and installation arranged by the Township with a fair share charge set up for the homeowners to pay and the homeowners responsible for running laterals from their homes to the mains. He stated this could not have been accomplished without the Township Sewer Authority and Township engineer being involved in this project. He stated now the Township is talking about selling the sewer system to a private buyer; and he feels if this happens, the individuals like himself will have a more difficult time getting water and sewer service to their homes. He stated the plans for the rejuvenation of Edgewood Village are great for the two developers who want to do projects in the Village but do nothing for the individual homeowners. He stated he has heard that the Township is interested in maintaining the quality of life to the residents, and he feels sewer and water service to the Edgewood Village residents is a quality of life issue. He feels while plans to rejuvenate Edgewood Village and the sale of the sewer system are being considered, the Board of Supervisors should direct the Sewer Authority and Township engineer to design the sewer and water system to service every property in the Village and installation could begin as soon as plans for the Village are settled and should be done before the sewer system is sold to any private developer. He noted the significant amount of money he has had to pay for his well and septic systems, and he asked that they not desert the people in the Village.

Mr. Caiola asked when the report was done, and Mr. Miller stated it was done about five years ago. Mrs. Godshalk stated she feels the majority of the systems were not

acceptable at the time, and while there are laterals surrounding the Village, to get it to the individual areas where the homes are would be quite an undertaking. Mrs. Godshalk stated there has been a plan for Edgewood Village for at least ten years; and she hopes that now with the plan that is being worked on, it will include all the homes in the Village for water and sewer.

Mr. Smith stated he spoke with Mr. Miller on the phone for about one half hour, and Mr. Miller provided to him the history of Scammell's Corner. Mr. Smith stated he advised him that they will not forget the homeowners in this respect. He stated the issue of selling the sewer system is not before the Board at this time, and they are waiting for reports to come in. He stated if it is to be sold, he feels they will make sure that something similar to what was done at Scammell's Corner will be done here as well.

Mr. Santarsiero stated he agrees that this is a quality of life issue. He stated they discussed Edgewood Village at a special public meeting held in January, 2006 and three things were identified that night that the Board indicated they would deal with before approving any Plans for the Village; and these were stormwater management, traffic, and sewers, and this has not changed. He stated the fact that this was not highlighted in the Newsletter does not mean that the Board of Supervisors is not going to consider this.

Mr. Smith stated when this comes before the Board eventually, they will make sure Mr. Miller and other residents in the area are notified so that they can bring up how the potential sale of the sewer system would affect them. Mr. Fedorchak was asked to make sure they were notified.

Mr. Miller asked at what point would it be appropriate that this be part of a discussion; and Mr. Stainthorpe stated this would come up when a developer has almost Final Plan, and the benefit of doing it this way is that the developer would foot a big piece of the bill. He stated the downside would be that they do not know when that might happen.

Mr. Santarsiero stated at this point they are finalizing the Zoning changes necessary for the developers to then come in with Plans. He stated when they get to that point, there will be ample notice, and all residents will be invited in to participate in the discussion. Mr. Smith stated the Historic Commission and Historic Architectural Review Board have been working on the Plans for Edgewood Village since the special public meeting they had devoted solely to Edgewood Village last year, so the process is moving along.

Mr. Miller noted the CVS was constructed across the street from him a few years ago, and they got their sewer and water coming in from Edgewood Road; but he was not able to take access to this because of the distance and the cost.

Mr. Peter Kundra stated for the past few years there have been conversations about Marazzo's, and Mr. Santarsiero did meet with a number of the neighbors regarding this issue. He asked that they keep this issue in the forefront. He stated they want Marazzo's

to be a good neighbor. He stated they are concerned with what might happen next noting they recently proposed installing a cell tower on the property. He stated the front of the property has continued to grow over the years such that 2/3 of the property is now paved; and he is concerned about the drainage. He stated the drain on the corner is now covered up with a mulch pile. Mr. Kundra stated there was a document which came to light during their meeting with the Township solicitor and it included a rider in the 1972 document which stipulated what could be done by the business; and this document is now missing. He stated he has discussed this matter recently with the Township Manager, and he does not see a lot of urgency there and there seemed to be a lot of confusion as to what they can and cannot do. Mr. Kundra noted the diagram which was submitted during the tower Application, and it appears that the right-of-way is approximately 15' from the curb line, and there is material in this area. He stated they have also put up huge banners and signs which is downgrading the neighborhood. He feels Marazzo's can do the same things they are doing now but with a little more concern for the neighborhood.

Mr. Smith asked that they give the Township staff an opportunity to work on this matter. Mr. Kundra asked that the Zoning staff and other Management staff be more receptive to phone calls and ideas rather than be defensive. He also stated he does not feel the residents should always have to put everything in writing. He stated they should be able to react quicker and using the form required is a hassle. Mr. Smith stated he has seen E-mails that show that the Zoning Department is actively working on this. Mr. Kundra asked if the Township has the authority to enforce the right-of-way if it is a State road. Mr. Truelove stated he feels there is concurrent jurisdiction so that the Township and State can enforce for the health, safety, and welfare of the citizens. Mrs. Godshalk stated this is why she asked that they require that they move these materials out of the right-of-way as soon as possible.

Mr. Santarsiero stated the problem has been over the past two years since he and Mr. Kundra have been involved with this, that the Township gets an Agreement and then Marazzo's does something else. He stated they did prevent the cell tower from going in, but this latest expansion without benefit of a Permit is a concern not only because of the impact to the immediate neighbors but also because there was an Agreement with them, and they have clearly gone back on it with respect to what they had previously done and then went farther and constructed this building as well.

Mr. Smith stated he feels there needs to be a penalty for persistent violators of the procedures. He stated there needs to be a disincentive and a procedure to make sure that this does not happen again. He stated this may be something that is regulated by State law. Mr. Truelove stated there are aspects of the law that give this opportunity, and he will look into the different options. He stated there may be Zoning violations and other Code violations that allow the Township to pursue a multi-front approach, and they will consider this tomorrow. Mr. Kundra stated he feels if they look closely they will find violations. He stated the document requires ninety-two parking spaces, and he does not

feel there are that many parking spaces; and during key holidays, cars are parking on the surrounding roads as well as trailers on the streets. He stated the message has not gotten across to the Police force that this is dangerous.

Ms. Nancy Gorman, Sutphin Pines, stated in addition to the impervious surface which they have increased, the area where they moved the mulch had been gravel and sod and is now all impervious surface. She stated the road in the back that is used by the trucks for deliveries was gravel until a few years ago, and it is now all impervious surface. She stated Sutphin Pines put in a new fence 1 ½ years ago; and when they installed it, they moved their fence line back into the Sutphin Pines property, and Marazzo's now has materials up against and over the fence. She stated they have long metal rods that they are storing on the Sutphin Pines fence. She stated her property backs up to Marazzo's, and the building and business has increased in size and scope over the years.

Mr. Joseph Lawrence, Makefield Road, stated he is the owner of J & J Landscaping Services who until 3:00 p.m. this afternoon was told he was the lowest responsible bidder for the maintenance contract for the Garden of Reflection. Mr. Smith noted that this matter is an Agenda item, and Mr. Lawrence was asked to wait until it is considered later this evening.

Mr. Scott Roth, Jockey's Way in Bridle Estates/Devonshire, stated there have been three burglaries in the last two weeks in his neighborhood with someone breaking into the rear windows with rocks. He stated there was also a car jacking approximately six months ago. He asked if there will be more Police presence in their neighborhood as he does not see much Police presence in this area. He stated security people are now driving in their neighborhood trying to sell burglar alarm systems. He stated he understands that the Township may be adding a soccer field near Quarry Hill, and he asked about Police presence for this. Chief Coluzzi stated he and his Officers are well aware of the burglary patterns in that area as well as burglaries in other areas of the Township which they also need to focus on. He stated the Detectives have talked to the homeowners about the burglaries and explained in private what leads they have in reference to each burglary and what the Detectives are doing with regard to the investigation. He stated with regard to patrols, there are many ways to patrol neighborhoods including covert surveillance in unmarked vehicles, visible patrols in marked vehicles, and surveillance from distance with technical equipment; and all of those are being done in this case. He stated with regard to the burglaries noted by Mr. Roth several people were notified today that the Detectives have substantial leads as to who is responsible. He stated proving that and connecting those individuals to these particular burglaries is difficult. He stated they are working with Bucks County Police and other agencies both in Montgomery County and across the River since there are similar burglaries occurring there as well.

Mr. Roth stated there is easy access from their development to I-95 which is a problem. He stated a lot of the foliage has been cut down, and he asked if this was a decision of the Supervisors or PennDOT. It was noted this was a decision made by PennDOT. Mr. Roth asked if the Lower Makefield Police patrol behind I-95 when they are going from ramp to ramp – from Yardley to the Newtown exit. Chief Coluzzi stated they do ride on I-95 when it pertains to their issues. He stated the State Police handle any reports of accidents occurring on I-95 unless there are no Troopers available in which case Lower Makefield would handle the accident. He stated there is a four foot chain link fence which runs across, and Mr. Roth agreed but said some of the foliage is not there anymore. Chief Coluzzi stated the foliage could sometimes block the view of the patrol cars and they would not have a view of the homes from I-95, although not having the foliage can also result in easy access to I-95.

Mr. Roth stated he does not see a Police presence at Quarry Hill where people are driving excessive speeds. Chief Coluzzi stated the Police are in the area, and they have issued 1,100 traffic tickets in the first quarter of this year which is aside from warnings. Many of these are in the areas of the Schools during School hours. Chief Coluzzi stated public safety is a priority in the Township, and they do continually discuss the correct number of Police Officers for a Township of this size. He stated at some point they will be showing on the Township Channel a segment on the Police Department discussing the equipment and the modern technology the Police have. Mr. Smith asked if this has played yet, and Mr. Fedorchak stated it has not. He stated they are in the process of installing new software and hardware which will allow them to automatically re-broadcast the Township Board meetings and other special presentations such as the Chief has described. Mr. Smith asked that this be broadcast as soon as possible.

Mr. Smith stated he feels they are at least two Police Officers short for a Township of this size. He stated he recognizes that this would be a cost to the Township to add these Officers and asked that the Chief re-visit the issue of additional Officers if he feels they are short; and he feels the Board would be receptive to adding additional Police Officers recognizing that this will cost more money. Mr. Smith stated quality of life begins with public safety. Mr. Smith stated there are also concerns at US 1; and from reviewing the Police logs each week, they can see that there are certain hot spots for crime and much of it has to do with people coming from elsewhere into the Township.

Chief Coluzzi stated they are hiring an Officer to replace an Officer who is retiring and will be adding an additional Officer as well. He stated not all Officers are on patrol as there are investigators who are not actually patrolling the streets so that there is actually a small number of Officers who are available at any given shift to patrol the growing Township. Chief Coluzzi stated they understand that the situation Mr. Roth has described is unsettling. Chief Coluzzi stated he understands from discussions with residents in that development that they are considering a Town Watch, and he asked that they make sure this happens as the residents know the neighborhoods well and they can

look out for each other in the neighborhood. He stated it also sends a good message to teenagers that the parents are watching the neighborhood.

Mr. Robert Lloyd stated he was a victim Friday night of a burglary. He stated the Detective did call his wife and indicated they were looking into it and had some leads this afternoon but he feels now he is hearing that they do not have any leads. Mr. Stainthorpe stated the Chief indicated that they did have several leads although they could not guarantee that it would lead to a conviction or catch them immediately. He also stressed that they were working with other Departments in Montgomery County and New Jersey and following up on the case vigorously. Mr. Lloyd questioned the response time as he felt it was at least twenty minutes before the Police arrived since his wife who was away from home reached the house prior to the Police getting there. Chief Coluzzi stated his wife did mention this to the Detective, and they pulled the radio tapes from the response and found out where other Officers were when the call came out. He stated every Officer that responded to his house was on another call when it came out and it took them exactly eleven minutes to respond to the call from the time it was dispatched to the Officers. Chief Coluzzi stated possibly the alarm company called his wife first before they contacted the Police Radio. He noted they had a very serious call on Sunday and their Officers were fortunately not on other calls and were able to arrive at the location in three minutes. He feels their response time is good for the number of Officers on the street. Mr. Smith noted with respect to this incident the Chief is discussing, the Township received a complaint from a resident who indicated the Police Officers were traveling too fast.

CONFIRMATION OF PROCLAMATION HONORING DANIEL F. RATTIGAN

Mrs. Barbara Rattigan was present. Mr. Smith extended condolences on behalf of the Township on the loss of Daniel Rattigan, Sr. who passed away recently. Mr. Smith noted Mr. Rattigan served the Township in the past and was a Lower Makefield Township Supervisor. He was recognized by a Proclamation which Mr. Smith read. Mrs. Rattigan accepted the Proclamation and thanked the Supervisors on behalf of her family. She noted that the position of Supervisor is very difficult but results in good feelings as well when they accomplish something

APPROVAL OF MINUTES

Mr. Santarsiero moved and Mr. Stainthorpe seconded to approve the Minutes of March 21, 2007 as corrected. Motion carried with Mrs. Godshalk abstained.

2006 GOLF COMMITTEE REPORT

Mr. Richard Eisner, Ms. Helen Bosley, Mr. Darrell Kates, and Mr. Patrick Frain from the Golf Committee were present. Mr. Eisner stated they are doing 40,000 rounds a year which are “Florida-type” numbers. He stated they have outings booked through the fall and are ahead of where they expected to be. He thanked the Supervisors for agreeing to the purchase of a new stove which will allow them to have outings and other events without the need for outside caterers. He stated the Course is in great shape, and the staff is doing a great job. He stated this is one of the top Kemper facilities. He stated Kemper manages 84 Courses in the Country some of which are very high-profile resort Courses, and the Lower Makefield Course came in third in the rankings of Kemper Courses. He stated this ranking was based on performance and feedback they get from the golfers. He stated they rank very high in National surveys. He stated the Course has become a destination course for those from New Jersey and New York. He stated the Golf Committee members act as ambassadors for the Golf Course.

Mr. Frain acknowledged General Manager, Mike Collins, and his staff noting they have done a fantastic job. Mr. Frain stated the Golf Course is involved in the Audubon Cooperative Sanctioning Program. He stated this involves the collection of data on the different plant materials, animals, and birds. He stated they need to do this for each season. They have had help from experienced birders who helped with these counts in the winter, and they identified thirty different species in one day; and he has been advised it is very good to have that many different birds come through the property in the winter. He stated once the Application is submitted and reviewed by the Audubon Society, they will deem them good stewards of the environment. He stated another part of the Application process is to have community involvement; and on April 21, they are inviting the residents of Lower Makefield to come to the Golf Course with binoculars and a bird book one half hour before sun up to identify birds. The Committee will then categorize the birds and put them in the inventory. He stated they are also involved with the Boy Scouts and trying to identify Eagle Scout candidates who would be interested in building bluebird boxes as part of a **community involvement** activity.

Mr. Eisner reported on the Junior Camps held at the Course for five weeks in the summer. He stated these Camps fill up extremely fast.

Ms. Bosley stated an e-mail went out recently noting the Programs which will be starting at the Course including clinics for women and clinics for Seniors instead of one-on-one golf instruction. She stated the Golf Committee will meet on Monday to discuss a proposal that addresses the issue of a trial program for nine-holers wanting to golf during the School year after 9:00 a.m. on weekdays. She asked that those interested in such a program contact her or the Golf Course at 215-321-7000, and they will put them on the list.

Mr. Smith asked if there is a girl's golf team at Pennsbury High School; and it was noted that it is a co-ed team, although there are no girls on that team at this time. Mr. Smith stated if there was a girl's high school golf club, possibly they could play at Makefield Highlands in order to get them into the sport. Ms. Bosley stated she has seen some very accomplished young women on the driving range, and she feels some of this is a result of the program that is run in the summer. Mr. Kates noted some of the other area high school teams do have girls on their teams.

Mrs. Godshalk stated she has worked with the Golf Committee for ten years, and she congratulated them on all the work they do.

APPROVAL OF ORDINANCE #368 – AMENDING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE TO PROVIDE FOR THE USE OF NATIVE PLANTS WITHIN THE TOWNSHIP

Mr. Jim Bray, Environmental Advisory Council, was present with Mr. Miles Arnott, Executive Director of the Bowman's Hill Wildflower Preserve. Mr. Bray reviewed Mr. Arnott's accomplishments and experience. He stated he has been involved in the horticulture field for over twenty years, and for the last six years has been the Executive Director of Bowman's Hill Wildflower Preserve which is one of the preeminent facilities of its type in the eastern United States.

Mrs. Godshalk stated this is a Public Hearing for the consideration of the adoption of Ordinance No. #368. Mr. Truelove noted the matter was advertised for this evening.

Mr. Bray stated they are requesting approval of the Native Plant Ordinance. He stated this would not apply to individual homeowners in the Township. He stated it does apply to development buffers in the Township and requires that native plants be used in the development buffers. He stated the Subdivision and Land Development Ordinance does not apply to the Township proper; but a Resolution has been presented, and by approving this Resolution, the Board would agree to follow the dictates of the Native Plant Ordinance as outlined in the Subdivision and Land Development Ordinance. He stated the exact wording is "insofar as is practicable, the Township shall make every reasonable effort to ensure that all properties owned or controlled by the Township shall adhere to the terms of and employ the techniques of the Native Plant Ordinance." He stated there is a second provision that states if a non-native plant has to be replaced on Township property, there is no problem with replacing that non-native plant in kind. He stated he feels the Ordinance has a great deal of flexibility.

Mr. Bray stated this is really an environmental Ordinance, and is designed as a continuation of the Low Impact Development Ordinance that the Board already put into effect in December, 2006. Mr. Bray stated the Ordinance has been reviewed by the

Board of Supervisors, the Planning Commission, Bucks County Planning Commission, the Park & Recreation Board, the Memorial Committee, and the Township engineer. He stated native plants are very much in the main stream of society. He noted a number of publications including the Pennsylvania Department of Conservation and Natural Resources, the EPA for the State and U.S. Government, the U.S. Fish and Wildlife Service, the Bureau of Stormwater Management in Pennsylvania, etc.; and all stress the virtues of native plants. He also discussed programs in other States.

Mr. Bray stated at the last meeting a few minor objections were raised regarding the Native Plant Ordinance, and he stated one gentleman put forth four articles indicating native plants may not be the most desirable choices. Mr. Bray stated they should consider focus, perspective, and viewpoint when reviewing these articles. He noted a quick review of the Internet presented 106 articles referencing the benefits of native plants. He stated the viewpoint of the Native Plant Ordinance is one of environmental concern. He stated people with a great deal of knowledge in the field have written the Ordinance and reviewed it. He stated Solebury Township has a similar Ordinance, and to some degree the Lower Makefield Township Ordinance has been patterned after that Ordinance as well as Ordinances in effect in Washington and Maryland. He asked the landscape architect who has been retained by Solebury Township how their Ordinance is working out; and the architect indicated the Ordinance was working well, developers were seeing the benefits, are aware of what is required, and are complying with the terms of the Ordinance.

Mr. Bray stated in the State of Pennsylvania there are approximately 1,200 introduced species with 60 of those plants being on the invasive list. Mr. Bray stated an invasive plant is one that has been introduced to the society and is growing aggressive and wild. He provide some examples of invasive plants. He stated while most of the introduced plants are not invasive, it is not yet know what their impact may be in the future. He stated a Native Plant Ordinance would stop the process and hopefully reverse it and indicates the Township wants to do a better job than has been done in the past with regard to the environment.

Mr. Arnott stated as Executive Director of the Bowman's Hill Wildflower Preserve, he is proud to lead an organization that is one of the premier native plant organizations on the East Coast. He stated the Preserve has an inside mission which is the care of their 134 acres on which they have approximately 1,000 species of native plants. He stated in the entire Commonwealth of Pennsylvania, there are 2,000 species of native plants. He stated they also use the Preserve to educate their visitors. He stated their outside mission is to affect the choices people make outside of the Preserve. He stated one way is to encourage action on the part of their visitors to accept responsibility for choices they make in their home gardens. He stated they also work with Municipalities to encourage them to develop responsible Subdivision and Land Development Ordinances. He stated they have worked closely with Solebury Township and stated Solebury has landscaped

their new Township Building with all native plants, the majority of which were provided by the Preserve. He stated they have also incorporated rain gardens which allow for infiltration of rain water to recharge the groundwater. He is pleased that Lower Makefield has modeled their Ordinance after the Solebury Ordinance. He stated like all Townships in this area, Lower Makefield is faced with balancing smart growth and development and conservation. He feels the Ordinance as written addresses that need, and he would recommend approval of the Ordinance.

Mr. Stainthorpe stated the gentleman that was present at the last meeting left some materials which he did review. He stated the articles indicated that they should focus on sustainable plants – not only native plants, and the articles seemed to be written by credible people. He stated they did discuss some native plants which do not do as well as non-natives. Mr. Stainthorpe stated it appears that most of the grasses at the Golf Courses are not native. Mr. Stainthorpe asked the difference in the definition between an indigenous plant and a native plant. Mr. Arnott stated he is not sure that there is much of a difference between indigenous and native. Mr. Stainthorpe stated he wants to do what is best and approve what will give the best options. He stated it seemed that the articles were not stating native plants were wrong but if the Ordinance limits it too much, there are actually a number of good options available that are not native. Mr. Stainthorpe stated he was also told that there were a number of hybrid plants created which were created to thrive in specific areas; and the native species do not actually do as well as the hybrids. He asked if a hybrid plant could be used under the Ordinance. Mr. Arnott stated he feels native plants are what provide a sense of place. He stated as you drive further north or south, you have different plants which give those areas a sense of place. Mr. Stainthorpe asked if they could use the hybrids, and Mr. Bray stated he does feel there is flexibility for this, and the Ordinance does accept cultivars. He stated on an overall basis native plants are the most sustainable for our landscape as they have co-evolved in this area. He stated they tend to be more disease resistant, and you do not have to water them as much or fertilize them. He stated the native plants also benefit the landscape including the birds. He stated everything is interrelated; and when you introduce plants from other areas, it might be deadly for other species; and he provided a number of examples.

Mr. Santarsiero stated the scope of the Ordinance deals with buffers and street trees in developments. He stated Mr. Bray has also indicated that with regard to replacement of non-natives that are already existing, they can be replaced with non-natives. He stated they are not imposing this on homeowners either. He stated they are trying to encourage use of native plants for the reasons Mr. Bray has described.

Mr. Stainthorpe stated he was surprised when people had questions about this at a prior meeting and when learning of decisions made years ago by the Department of Agriculture may not have been correct, he wants to make sure that what they are doing is the best thing to do. He stated while he is not opposed to the Ordinance, he wants to get a

better understanding of what is the best thing to do. Mr. Arnott stated he feels this is a healthy approach and feels they should question the facts. Mr. Caiola stated he feels it is important that they hear all the concerns from others who have questions about the Ordinance and it was important that the questions were asked and answered.

Mrs. Godshalk stated she received several letters about this issue and feels the packet of information from Mr. Lieb including the letter from Mr. Geiser is very valuable information. She noted the e-mail received by the Board today discussing the American Chestnut and the attempt to introduce a tree that has 90% of the American Chestnut but the remaining 10% is from a Chinese Chestnut to provide resistance to disease which killed American Chestnuts in the past. She asked if they would allow such a tree under this Ordinance, and Mr. Arnott stated he would encourage using this and stated they are planting those trees on their property. Mrs. Godshalk stated the site where the plants are to be installed should also be carefully evaluated because what was suitable 100 years ago may not be suitable today because of salts and fertilizers used today which were not used 100 years ago. Mrs. Godshalk stated she feels the most important letter was from the Bucks County Planning Commission which commends the Township for looking at natives, but recommended that “that Township Officials may wish to consider other aspects of restricting the approved plant exclusively to natives as many natives may be limited or unavailable at local nurseries and some non-native tree species may be better suited for specific planting.” Mrs. Godshalk stated she feels there should be a choice depending on where the plantings will take place.

Mr. Bray stated he did discuss the **comments** made in the Bucks County Planning Commission letter the last time he was before the Board of Supervisors. He stated they had made some recommendations, most of **which** were incorporated in the **Ordinance**. He stated some were not incorporated and at the last meeting, he did discuss the reasons why they did not incorporate those recommendations. He stated from the last letter to the most recent letter, the legal interpretation was that there was no substantive change. Mrs. Godshalk stated while she understands this, the letter from the Bucks County Planning Commission dated 3/7/07 indicated they are still objecting to “all native.” Mrs. Godshalk asked why this could not be done on a smaller scope and just be put into planning if it is only going to apply to buffers and street trees, and the Township could handle it during the development process. She is concerned that things that start this way eventually become the law of the Township for everyone. Mr. Smith stated this is not the intention of the Ordinance and it is restrictive in that it only covers developments and does not apply to private homeowners. Mrs. Godshalk stated while she is aware of this, some of the statements made in the Ordinance were indicated not to be true by experts from Penn State. She noted particularly the statement in the Ordinance which states natives are more tolerant and she stated she would like to see the documentation for this. She reviewed wording in the letter in the packet they received which states “if non-natives can serve to diversify habitat, why not allow them to play a role.”

Mr. Santarsiero moved to approve Ordinance No. 368.

Mr. Truelove stated if the Board passes this Ordinance, there is also a separate Resolution to be considered as part of the packet.

Mr. Caiola seconded.

Mr. John Beherka, Lower Makefield, asked if they have a list of plants William Penn introduced. Mr. Bray stated he does not. Mr. Beherka stated he does not feel Mr. Penn knew much about horticulture but was still very successful. He stated one of his neighbors claims to have a tree that was planted about the time of William Penn called an English Walnut, and he does not feel this is native.

Mr. Ken Spears, 253 Hollow Branch Lane, asked that the Board not pass the Ordinance. He noted comments from the Penn State Extension Service and the Bucks County Planning Commission who have asked that the Township consider the inclusion of some non-natives. Mr. Spears stated he has worked in the green industry for twenty-one years. He stated he knows Mr. Lieb who is a friend of his, and they have discussed what is happening in the Township. Mr. Smith asked for Mr. Spears' background, and Mr. Lieb stated he works for the Brickman Group, and they are the largest landscaping corporation in the Country. He stated he works with the Corporate Operations Department. He has a BS in Plant Science.

Mr. Spears made a power point presentation this evening. He stated he supports the other environmental efforts made by the Board of Supervisors and is appreciative that the officials are addressing environmental issues including Cool Cities, the low impact land use, etc. He stated the Ordinance does contain many good aspects in assuring that developers are using wise landscape buffers, appropriate planting techniques, and taking protection measures for existing plant materials. He stated he does object to the passing of the Ordinance in its entirety due to the "native-only" aspect. He stated that while the Ordinance indicates that native plants "tend to be more insect and disease resistant," he does not find that to be true; and he does not feel their industry would be working on hybridization and introducing plants into our environment if they were not more insect resistant, require less maintenance, and be more adaptive to our environment. He stated there are many instances where non-native plants are superior. He stated the Ordinance also states that native plants require less watering and fertilizing, and stated there are many plants that are hybridized and used for putting in very arid, open space, full sun and require a lot less water than some natives.

Mr. Spears noted Scott Geiger, the Penn State Extension Agent, has indicated that they are not always more insect and disease resistant and Mr. Spears stated he feels this is the most important reason not to have this "native-only" Ordinance. He stated superior pest resistance exists in many non-natives.

Mr. Spears showed examples of diseases on native trees and some **disease-resistant** non-natives. He stated Mr. Geiger has also indicated that natives do not necessarily require less water. He stated Mr. Geiger has also indicated that while the Ordinance states “whereas birds are more attracted to native plants and use such plants for food, cover, and rearing their young,” he would agree that “that natives have excellent food and cover for rearing their young, but non-natives can play a role in that as well.” Mr. Smith asked that he complete the sentence, and stated Mr. Geiger has indicated, “natives provide excellent food and cover for wildlife and that is why planting natives makes lots of sense.” Mr. Spears stated he is approaching this from a pro-choice front and would encourage many natives to be planted, but stated they are in a suburban landscape that has been disturbed by development where you are clearing, cutting and filling to grade, having compaction, adding asphalt which adds heat load to the environment, and some of the natives are not the best and most adapted to those environments. He stated soil conditions and exposure has changed and many of the plants being developed are specifically to fulfill those kinds of needs so that there will be good longevity and sustainability.

Mr. Santarsiero asked if the Board were to accept the earlier statement that there is also an aesthetic reason to adopt this Ordinance by preserving the historic landscape of the area, and they had a list of native plants, many of which Mr. Spears has conceded are hardy and resistant to the plant maladies being described, would it not be so under the Ordinance that they would be able to chose native plants that would be hardy and would still achieve the interest they have in trying to maintain the unique flora of the region as it was. Mr. Spears stated this would be true provided it fell into the native category, but it does **limit** a number of good choices and ones that can be more well adapted to our long-term sustainability of our environment. Mr. Santarsiero stated given the fact that there are a number of native varieties that are hardy, resistant, and good for the environment, he would question why adopting this Ordinance would be problematic especially since it has a fairly limited scope as to what it would cover in the Township. He stated he would like to know what the real objection is.

Mrs. Godshalk stated Mr. Santarsiero mentioned “aesthetics,” and she does not feel this is for the aesthetics but is because certain people feel that native plants are more sustainable. She stated she feels some non-natives are as well. Mr. Santarsiero stated he does not feel this is the only reason. He stated just as they are trying to preserve historic structures in the area, there is also a historic landscape to be preserved and native plants are an important aspect of this and to allow them to flourish. He stated this Ordinance does this in only a limited way and does not control what people do on their private property.

Mr. Spears stated his objection lies more on bio-diversity and the sustainability of the plants in a suburban setting. He stated he would counter the point that was said that hopefully they could reverse some of the environmental imbalance that society is creating

by use of native plants; and his reaction is by limiting it, he would question what they are looking at in terms of plant development. He stated plants are evolving all the time, and they are sustaining a gene pool artificially by limiting any biodiversity that they could be adding with other valuable plants. Mr. Santarsiero stated with respect to biodiversity, he feels that point would have more force to it if, in fact, they were passing an Ordinance that required every square inch of the Township to be covered in native plants which is not the case; and the majority of the Township would still be open to non-natives being planted.

Mr. Spears stated there is an economic issue as well since many of the cultivated or introduced plants require less maintenance than natives so that when they are doing new developments, and the developments get turned over to the maintenance of a townhouse association, they are responsible for that environment and have to maintain it. He stated there are also safety reasons as certain plants remain small and Police officers can see over them as they drive by and also they do not require pruning. He stated plants are bred for a lot of benefits, and he does not feel they should be excluded.

Mr. Spears showed pictures of a number of native invasive plants. He stated it is also incorrect that native plants are hardier as there are a number of non-natives which are more hardy and would sustain in the Township better than natives. He noted the comments about saving the Township's historic value and having a sense of place but noted the forefathers brought in plants that they loved and cultivated in the United States and noted the number of introduced plants at Mount Vernon as well as in the gardens at the home of Thomas Jefferson. Mr. Spears showed pictures of a number of plants that would no longer be permitted under the Ordinance including certain azaleas, hydrangeas, forsythia, burning bush, hostas, daylilies, saucer magnolias, a number of cherry trees, tea roses, petunias, etc.

Mr. Spears noted the Bucks County Planning Commission response dated 3/7 which does commend the Township for proposing native plants but also states, "some non-native tree species may be better suited for specific planting context and soil conditions for instance some of the proposed native plants may not do as well in urban situations, parking lots, street trees; may not be tolerant of salt and soil compaction but some non-native species can adapt to that ... and restricting planting to only native species will likely limit the flexibility and effectiveness of landscape planning projects within the Township and could lead to over-planting of a few species and you may want to consider adding selected non-native species to the approved plant list." He noted the response of Scott Geiser from the Penn State Extension Service and the suggestion is to draw up a list of preferred plants for the Township and consider all the best natives, but also include the best non-natives too and to cultivate a criteria of best plants rather than native only or a list of plants that should not be planted. Mr. Spears stated he is not sure why these two pieces of information are not being heeded. He feels it would be better to have a list of what plants would not be permitted. He stated they could begin with a zone hardiness

map and then consider the U.S. Department of Agriculture Natural Resource Conservation Service which has a list of invasive species to be on the excluded list, and they could then have someone with expertise to identify plants either native or non-native which are problematic and are not sustainable in this area. He stated someone like Scott Geiser could be employed to work with the EAC to arrive at an exclusion list.

Mr. Caiola stated Mr. Spears mentioned the need for diversity and stated there is a substantial list of native plants. He asked if there is not at least one native plant that would not fit into all of these situations Mr. Spears has noted such as dealing with road salts, etc. Mr. Spears stated they are still limiting a lot of other good choices. He stated there could also be an issue with availability and people are purchasing cultivated plants because they are adapted to this suburban environment, are disease resistant, and require less maintenance. He stated while you can get the native plants, you often cannot get them in the quantities needed, and they can be expensive. Mr. Caiola asked if large landscaping companies would not be able to get these plants, and Mr. Spears stated sometimes to fulfill a very large order, you have to go to a number of resources.

Mr. Santarsiero asked what percentage of the Brickman inventory is non-native, and Mr. Spears stated their business is 65% maintenance and 20% plantings. He estimated 75% of their inventory would be non-native.

Mr. Arnott stated he feels Mr. Spears' presentation was disingenuous. He stated he could show slides documenting similar devastation of non-native plants. He stated Mr. Spears also mentioned that non-natives contribute to the sustainability of the environment, and he is unsure what he meant by this. He stated he feels they should consider the interconnectedness of life. He stated there is a distinction between horticultural heritage and natural heritage. He stated they do have certain food plants that they rely on but this is different from our natural heritage when looking at the natural plants and the landscape that was here before European settlement, and there should be an attempt to conserve and preserve that natural heritage. He stated he was surprised that Mr. Spears showed burning bush as one of the examples that would be lost since he feels this plant has invaded the woodlands and is one of the extreme pest plants.

Mr. Bray stated introduced plants are not as sustainable as native plants and questioned what the next horror story will be and does not feel it will be from one of the natives. He stated the Township controls the process to the extent that it is reasonable and practical. He stated the Ordinance does not apply to individual homeowners or to turf grasses. He stated the natives are more economical because they are well adapted to the environment. He stated his own garden is filled with natives, and he does not have to water his garden. He stated the issue of availability was raised; and while fifteen years ago, this may have been an issue, today this is not a problem. He stated he and Mr. Majewski discussed this and both feel these plants are readily available.

Mr. Arnott stated the flexibility is in the Ordinance as drafted since it states “insofar as is practicable the Township shall make every reasonable effort...”

Mr. Caiola asked if a non-native which is not invasive or damaging to the environment could be planted along with natives at the request of a developer or landscaper under this Ordinance. Mr. Bray stated they do have this flexibility. He stated the developer would have to apply for a Waiver. The Township would decide whether or not they want to do it. He also stated that the list they have has 400 plants on it; but cultivars are acceptable and when you include cultivars, the number of plants on the list could be 3,000 to 10,000. He stated a cultivar is a “tweaking” of a native plant. Mr. Smith stated it appears that hybrids which incorporate sustainability and hardiness would be acceptable, and Mr. Bray stated the Township would decide what is acceptable. He stated a developer would have to apply for a Waiver. Mr. Arnott stated this could be up to the discretion or advisement of the EAC.

Mr. Santarsiero stated it appears the Ordinance has a relative limited scope in terms of applicability as it will not cover private properties and also gives the developer the opportunity to ask for a Waiver. It also gives the Township the option for their own properties to determine whether or not they want to use a certain plant.

Mr. Spears stated he would encourage them not to pass the Ordinance the way it is written and that they include a list of non-natives and leave the plant selection up to the landscape architects who they should hold to a level of professionalism as they propose development plans to the Township.

Ms. Nancy Gorman, 64 Sutphin Pines, commended the Board on the responsible environmental positions they have taken including Cool Cities and the low impact development. She stated she feels these are things that as a community can have a positive impact. She stated she is the Chairman of the Landscape Committee for Sutphin Pines and has met with a number of landscape architects who have across-the-board recommended some invasive species so she does not feel that they are the ideal candidates who should be selecting plants. She feels they should rely on the Penn State Extension Service, Mr. Bray, and Bowman’s Hill which is one of only three native species plant centers that are recognized. She stated utilization of native plants provides beautiful, hardy, drought-resistant, low maintenance landscapes while benefiting the environment. It also reduces the need for water, fertilizers, and pesticides. She stated fertilizers and pesticides run into the Delaware watershed which has a negative impact on the environment. She stated native plants do require less water because they are adapted to the environment. She agrees that not all native plants will work in the berms because of the salt used on the roads, but they have provided a sufficient number of plants so that they will be able to find one that will work. She stated native plants add to the biodiversity of the area since certain wildlife only use these native plants.

Mrs. Godshalk stated Ms. Gorman suggested they rely on the Penn State Extension Service, and the letter they sent to the Township does dispute large parts of the Ordinance. Ms. Gorman stated she did speak at length to representatives from Temple and the Penn State Extension Service, and not one person recommended non-natives. She stated if that one individual at Penn State recommended non-natives, she would suggest that they discuss this with someone else. Mrs. Godshalk stated the summary of the letter from the individual from Penn State states, "I think the intention to plant more natives is a great idea but I just don't think completely excluding non-natives makes sense and there is certainly a compromise position where natives are planted widely and given first consideration. When the native makes sense plant it, but if for one of many reasons a non-native plant really makes sense for your community, why tie your hands with an Ordinance that prohibits it? Whatever the outcome of your discussion Penn State has lots of literature on excellent native and non-native plants." Ms. Gorman noted a number of other States and Townships which are heading in this direction. She stated what is proposed is a very limited application for use of natives. She stated the Supervisors have the opportunity to decide whether they want to do a replacement with a native or not. She stated as more and more people ask for natives, they will become more available. She stated there are problems with burning bush at Sutphin Pines, and they are an invasive species.

Ms. Helen Bosley, 546 Palmer Farm Drive, stated she is in favor of the addition of non-native species to the Ordinance. She stated she heard Mr. Bray give a legal opinion with respect to the extent of who is responsible under the Ordinance for determining what plants could be replaced; and she is concerned that the Township solicitor is not the one giving the legal advice. She stated they are also stating that this does not involve private property owners, but noted the new residents at the Matrix development will in fact take over the common areas from the developer and will have an Association that is required to live under this Ordinance. She feels the Ordinance is very restrictive and feels with a simple amendment, it could solve a lot of the issues which have been raised. She also feels an amendment would broaden the Ordinance and allow more choice with respect to what they are trying to accomplish.

Ms. Virginia Torbert, 1700 Yardley-Newtown Road, stated she feels what they lack currently in the Township in diversity is native plants; and this Ordinance will have them restored in limited areas. She feels this will bring back some native plants. She stated this is a very limited Ordinance and does not refer to homeowners. Mrs. Godshalk stated it is not in limited areas as it will involve the thousands of acres of Township property that the citizens of the Township own.

Ms. Ellen Saracini, Heather Circle, stated with respect to the Garden of Reflection they have a landscape architectural design; and the elements of design involve mass groupings which make up a specific design element. She stated Mr. Bray has indicated that if a

non-native needs to be replaced, it can be replaced with a non-native; and while she feels the Garden would fall under this criteria, she would like to make sure that this is the case. Mr. Santarsiero stated the answer to the question is yes. Ms. Saracini stated the Ordinance will impact the Park as well as noted by Mrs. Godshalk. She stated they have been working on a shade tree area in Memorial Park, and they have included natives in that because of the proposed Ordinance. She stated it was put upon them that they needed to stay with natives only despite the Ordinance not yet being passed. She stated they are looking for native grasses, and are having a hard time finding native grasses. Mr. Caiola stated grasses are not part of the Ordinance. Mr. Bray stated ornamental native grasses are part of the Ordinance, and he could provide Ms. Saracini with some nurseries where these are available. Ms. Saracini stated they have been calling them, and they are not always available. She stated as a Township resident, if they are going to plant non-natives because they work, she does not feel they should limit them. She stated they have been through a lot of processes over the years trying to find plant material, and the natives are not readily available in quantity.

Ms. Bosley asked if this would apply to the Golf Course, and Mrs. Godshalk stated it would.

Mr. Smith stated he feels the Supervisors should be able to explain why they are voting the way they are. Mr. Stainthorpe stated he feels after hearing the discussions from the professionals, he still has not heard definitely why non-natives are bad. He does not feel he has heard why less choice makes it the best way to go. Mrs. Godshalk stated they currently provide a list to the developers of what they can plant; and if they mix it with natives and non-natives, the list would be larger than what they are currently allowed. She stated if something is bad, whether native or non-native, it should not be on the list. Mr. Caiola stated he feels they do have a choice since it is possible to use a non-native provided the developer is able to prove it will not be detrimental. Mr. Santarsiero stated he feels they want to preserve the natural history of the area. He feels the evidence that has been presented is the more hardy species happen to be native species. He stated the Ordinance also allows the Township a great degree of flexibility, is limited in scope, and provides the opportunity for Waivers by the developers and the Township to decide what they want to do on their own property including the Golf Course. He stated he does not feel they are taking such a dramatic step from where they are now, and they are trying to encourage the growth of native species in the area. He stated he does not understand the basis of the opposition. Mr. Smith stated he was very impressed by Mr. Spears' presentation, but noted this Ordinance has gone before the EAC and the Planning Commission and has been approved unanimously by both. He stated he did read the comments from Penn State and the Bucks County Planning Commission, and he does not feel they are indicating that it is a bad Ordinance, but have recommended flexibility. He stated he feels what has been proposed is limited in scope and does provide flexibility. He questions the motivations of those who have come up and indicated they are against it. He feels this will put Lower Makefield on the cutting edge of environmental

advancements for Lower Makefield and feels other Municipalities will then follow through as well.

Motion carried with Mrs. Godshalk and Mr. Stainthorpe opposed.

Mrs. Godshalk stated she is not questioning the motivation of Penn State Extension Service or Bucks County Planning Commission.

Mr. Truelove stated there is also the accompanying Resolution before the Board as presented by Mr. Bray. He stated he feels it does address some of these other issues. It was noted that none of the Supervisors had received this Resolution, and this matter was not on the Agenda. Mr. Truelove stated while he is familiar with the Resolution, he does not have a copy of it either. Mr. Bray provided Mr. Truelove a copy, and he read portions of the Resolution. He stated it is consistent with the Native Plant Ordinance.

Mrs. Godshalk moved and Mr. Stainthorpe seconded to table the matter because the Board of Supervisors had not received it. Mr. Smith stated he would agree that they should table this to give the Board of Supervisors the opportunity to review it. Motion carried unanimously.

APPROVE RESOLUTION NO. 2143 ENDORSING PARTICIPATION IN THE DELAWARE RIVER COMPREHENSIVE PA FEASIBILITY STUDY ALONG THE BUCKS COUNTY PORTIONS OF THE DELAWARE RIVER

Mr. Santarsiero moved and Mr. Smith seconded to approve the Resolution No. 2143.

Mrs. Godshalk stated the Township is supposed to appoint a representative to the County Committee; but it was noted that this is a different matter having to do with the River.

Mr. Smith stated he was invited to attend a session with eleven other Municipalities a few weeks ago with representatives of the U.S. Corps of Engineers, and there was discussion about flooding problems in the area. He stated there is a two-part procedure; and before they implement any project, they must do a feasibility study. He stated they will not do any implementation until the study is completed, and it could take four years before they implement any recommendations. He stated the study will cost \$200,000 per year to be paid for in a partnership between the Federal Government and the private sponsors, who in this case are the Municipalities. He stated the implementation is also a partnership to be paid by the Federal Government and the Municipalities. He stated for the study portion it would be a 50/50 split, but the implementation portion would be 65% Federal Government and 35% Municipalities. He stated they did indicate that they accept in-kind services such as the study which the Township already paid for and noted there are other Grants they are able to obtain. They have indicated that there are numerous Grants

available which would reduce the Township's financial responsibility. He stated the Board must decide if they wish to join in with the Feasibility Study despite the time factor, and he feels they should join in. He stated other Townships have already passed Resolutions to join in. He feels the Township has an obligation to join in the study to help protect the residents.

Mr. Fedorchak stated moving forward, the time that the Township staff spends toward this project including that of the engineer, Police Chief, Public Works Director, and Township Manager would be considered eligible as in-kind contributions; and there will be a considerable amount of the staff's time devoted to this so he is confident that they can minimize their actual out-of-pocket cash expense towards the Township's share. Mrs. Godshalk stated the Township may have already paid its share.

Mr. Scott Burgess, 15 Glen Drive, stated today represents the two-year Anniversary and nine months have passed since the flood of 2006. He stated he has read that an expert has indicated there will be five major hurricanes in the upcoming season. He stated over the past seven months, the average days on market for homes in Lower Makefield and Yardley Borough has been 59 days; but stated there are four homes in the Black Rock Road Canal neighborhoods that he has observed and they have had to drop their prices a number of times and have been on the market for a significant period of time. He stated almost all of the traffic they have had have questioned the flooding and 95% do not wish to purchase flood insurance. Mr. Burgess asked about the storm drains. He stated there are five storm drains where they were to install back-flow preventors, and they are still waiting for specifics as to when they will all be done. He would also like to know when the clearing of the swampy areas from Black Rock south will be done. He also asked who in the Township is coordinating the efforts by the DCNR, and Mr. Stainthorpe stated this would be the Township engineer. Mr. Fedorchak stated Chris Benosky is representing the Township on this, and has been in contact with the engineers from Harrisburg who are handling this project and met on site with those engineers approximately one month ago.

Mr. Caiola stated he feels it has been far too long since they discussed the back flow preventors. He asked if there is any timeframe. Mr. Fedorchak stated Mr. Majewski has been having difficulty with the supplier for some time; and Mr. Fedorchak believes that the preventors have been ordered and are on their way, although Mr. Majewski would have to confirm this. Mr. Fedorchak stated as soon as they are received, they will be installed.

Mr. Burgess stated Mr. Majewski had discussed temporary measures which could be taken in the event of a flood; but he noted if they do the temporary measures too early, it will stop the water from going from the streets back to the swamp area, and if you do it too late, you will not be able to get there in order to put them in. Mr. Fedorchak stated Township crews have been working in the area between the Canal and the homes clearing

out debris which will maximize the flow of the water in the area and hopefully minimize flooding in the neighborhoods. He stated the Township crews also dredged out certain portions of the creek along Black Rock Road which was something RAFT had asked that they do. Mr. Burgess stated that was from Black Rock north to Yardley, and he was asking about Black Rock south. Mr. Fedorchak stated they have been in that area cleaning out debris.

Motion to approve Resolution No. 2143 carried unanimously.

Mrs. Godshalk stated while it is not on the Agenda, she felt they needed to appoint a representative to the County group, and she would like to recommend Mr. Burgess. She stated it does not have to be a Township official. Mr. Santarsiero stated this is not on the Agenda this evening, and Mr. Smith stated he feels they should consider this further.

DEFER APPROVAL OF FLOWERS MADANY TRACT, PHASE II (AKA BROOKSHIRE ESTATES)

Mr. Truelove stated this matter can be deferred as they will later on the Agenda consider an Extension for this project.

APPROVE REQUEST OF THE DEININGER FAMILY, 430 HIDDEN OAKS DRIVE, TO PERMIT CONSTRUCTION OF AN IN-GROUND SWIMMING POOL EXCEEDING DEVELOPER'S ALLOWABLE IMPERVIOUS SURFACE BUT WITHIN THE RATIO PERMITTED BY THE TOWNSHIP

Mr. Roger Deininger was present and stated when the property was constructed in 1993, it was Permitted at well below the impervious surface allowable limit for a lot of their size. He stated after they submitted their Permit for the Pool, the Township engineer came out to their lot and made a suggestion which they included on their Plan. He stated they would like to have the impervious surface increased, recognizing that it will still be within the Zoning allowable limits of their lot.

Mr. Stainthorpe stated the reason he must come before the Board is because this was part of the Development Agreement, and he asked the rationale at the time for setting these standards. Mr. Fedorchak stated typically the engineers are the ones that come up with the averages based on the unique characteristics of the development. He stated the Township engineer and the developer's engineer agree to a number; and in this particular case, the number was 16% which was the average for the lots in this development. Mrs. Godshalk stated it may have had something to do with the environmental aspects of the particular lot, and she asked if there are any particular environmental issues.

Mr. Deininger stated when Mr. Majewski came out to the lot he indicated it had to do with the run off of the water. If they had Permitted it to a large percentage, which they could have done, they would have had to either enlarge the current run-off basin or add another basin in the development which he does not feel the developer wanted to do, so they Permitted it at a much lower impervious surface area than they could have given the lot sizes in the area.

Mr. Stainthorpe asked if his neighbors are aware that he is building a pool since normally they would be notified by the Zoning Hearing Board, and Mr. Deininger stated they have been notified.

Mr. Stainthorpe moved, and Mr. Caiola seconded to approve the increase in impervious surface to 19.6%. There was no public comment. Mr. Stainthorpe noted a typical R-2 lot permits 24% so they are still well below this. Motion carried unanimously.

TOWERING OAKS SUBDIVISION REQUESTS

Approve Installation of a Holding Tank at the One Newly-Constructed Home

Mr. Rick Wilson was present with Mr. Hank Hoffmeister, Sewer Administrator. Mr. Wilson stated this is a seven-lot Subdivision on Dolington Road. It was originally proposed to be a gravity sanitary sewer system that was to go from the Subdivision along Dolington Road into Woodside Road and tie into Brookfield Road. It was to go to a depth of 15'. When the excavator did the test borings, they found that there was bedrock 6' below the grade. Mr. Wilson stated he met with Mr. Hoffmeister, Mr. Majewski, Ms. Frick, and Danielle, the sanitary sewer engineer, about one year ago to determine how to proceed. He stated they could not do blasting on Woodside Road because of the Trans-Continental gas line. He stated they came up with a plan for a force main, and this was subsequently reviewed and approved by the Township's sewer engineer, Remington-Vernick; and as of today, the Permit has been approved by the DEP for the installation of the sanitary sewer line with a force main. He stated they originally had an exemption for obtaining Planning Modules; but because this has been changed from a gravity system to a force main, they have to get planning modules which will take from four to six months. Mr. Wilson stated they have a model house under construction that is near completion, and the DEP suggested that they have a holding tank on an interim basis recognizing that this would only last until they got the planning modules approved at which time they will hook into the sanitary sewer system. Mr. Wilson stated he has contacted the County Health Department who has provided their guidelines and suggested that once the Permit Application is completed, this is something that they have approved in the past

Mr. Stainthorpe asked if this has to be cleaned out every three days, and Mr. Hoffmeister stated this is correct. He stated he has a copy of the document which contains the

stipulations by the State, and it lists exactly what Mr. Wilson is required to do including how to decommission the holding tank when the public system is ready for connection. Mr. Hoffmeister stated this is a temporary method of on-lot septic system which is why the County and State have jurisdiction over it. Mr. Hoffmeister stated the Township does not have any holding tanks; and although Applications have been made in the past, the sanitary systems were in place sooner than anticipated and the holding tank was withdrawn. Mr. Smith asked the size of the tank, and Mr. Hoffmeister stated the house must meet the Act 537 commitment which is 320 gallons a day so it would be approximately a 1,000 gallon tank. Mr. Stainthorpe asked if this is put in the ground, and Mr. Hoffmeister stated it is. He stated it will also be inspected by the Health Department for installation, records have to be kept on having the sewage pumped out, and it must be pumped out by a Bucks County licensed sewage hauler. Mr. Wilson stated given the alternative, this is preferable than not being able to have the house occupied for the entire four to six months.

Mrs. Godshalk stated she has been in many model homes, and the toilets are bolted and are not used. She asked if they bolted them would they still have to do this to satisfy the requirements of the County, and Mr. Hoffmeister while this is not something they usually have in the Township, his understanding is that the Permit being referred to by Mr. Wilson is something that is relatively new by DEP which states you can put all your piping in the ground, but you cannot make the end connections. He stated normally in a model home, they have allowed one bathroom to have water for someone in the house rather than have a portable facility outside. He stated the difference was that in those homes, those systems were connected to the sanitary sewer system. In this case, because of the change, this will require the temporary system.

Mr. Santarsiero moved, Mr. Caiola seconded and it was unanimously carried to approve installation of a holding tank on an interim basis until Planning Modules are approved.

Approve Use of Belgian Block for Curbing Instead of Concrete Curbs at Towering Oaks

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to approve use of Belgian block for curbing instead of concrete.

**APPROVE GRANTING EXTENSIONS FOR FLOWERS MADANY TRACT
PHASE II, (A/K/A BROOKSHIRE ESTATES), NORMAN AND PATRICIA
O'ROURKE, AND LOTUS TRACT**

Mr. Stainthorpe moved, Mrs. Godshalk seconded and it was unanimously carried to grant an Extension to Norman and Patricia O'Rourke Preliminary Plan for a two-lot Subdivision on Washington Crossing Road to 7/21/07.

Mr. Stainthorpe moved, Mr. Caiola seconded and it was unanimously carried to grant an Extension to Lotus Tract, three-lot Subdivision on Big Oak Road to 7/7/07.

Mr. Santarsiero moved, Mr. Stainthorpe seconded and it was unanimously carried to grant an Extension to Flowers-Madany Tract, Phase II (a/k/a Brookshire Estates), to 7/19/07.

ZONING HEARING BOARD MATTERS

With regard to the Joanne Guinven, 986 Cultipacker Road, Variance request to construct an addition resulting in greater than permitted impervious surface, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Richard and Marilyn Quake, 2 Delaware Rim Drive, Variance request to construct an addition resulting in encroachment into the special setback of Woodside Road, it was agreed to leave the matter to the Zoning Hearing Board.

With regard to the Stony Hill Office Development II, 770 Township Line Road, Special Exception request to permit a restaurant in Building No. 2, it was agreed to leave the matter to the Zoning Hearing Board

SUPERVISORS' REPORTS

Mr. Stainthorpe stated the Farmland Preservation Corporation had their tour of their properties. He stated the properties are basically in good shape although there are the usual issues with regard to fences and keeping the buffers clean.

Mrs. Godshalk stated the Garden of Reflection has had twenty benches worth \$40,000 donated which will be installed shortly. Plaques will be installed at a later date. She stated they will be attending the Planning Commission meeting next week to present the plan for the Family Gathering area which will have benches, trees, and paths and eventually a children's maze which they have named the "Secret Garden."

Mr. Santarsiero stated the Southeastern Bucks League of Municipalities met last week with the main item on the Agenda being a presentation by the Lower Makefield Disabled Persons' Advisory Board. He stated they encouraged the other members of the League who do not yet have such a Board to adopt one, and those that do, to do some things that can make them more active as ours is.

Mr. Caiola stated he and Mr. Smith attended the most recent Regional Traffic Task Force. An Open House will be held at Charles Boehm in late April. Mr. Smith asked that the date be posted on the Web page and Community Channel. Mr. Caiola stated at

the Regional Traffic Task Force they discussed the findings of the study done with regard to the truck and traffic issues along Stoopville and Lindenhurst Roads. He stated the next meeting of the Task Force will be in May.

Mr. Smith stated the Elm Lowne Committee met but did not have a quorum. He stated they are in need of additional members, and he asked those interested to step forward. He stated they are considering a recommendation for an art program to take place in the summer on a limited basis. Mr. Smith stated the Special Events Committee is working hard on the Spring Fling to be held Sunday, May 6.

AWARD BID FOR GARDEN OF REFLECTION MAINTENANCE

Mr. Fedorchak stated the Park & Recreation Department with input from Liuba Lashchuk put out to bid the Landscape Maintenance Service Contract for the Garden of Reflection. They received six bids with bids ranging from \$13,136 to \$24,064. The apparent low bidder was Townscapes, Inc. He stated Townscapes met all the conditions of the Contract with the exception of one as they had stated in the proposal that they would supply double-shredded hard wood bark; and the Contract specified triple-shredded bark. Mr. Fedorchak stated Ms. Liney contacted Townscapes, discussed the discrepancy, and Townscapes offered that they would supply triple-shredded bark at no additional cost. Mr. Fedorchak stated if the Solicitor is comfortable with this, the Township staff would recommend that the bid be awarded to Townscapes, Inc. at \$13,136. Mr. Caiola asked if this was a verbal agreement, and Mr. Fedorchak stated Townscapes has presented it in writing to Ms. Liney.

Mr. Truelove stated this just came to his attention this evening; and based on an overall review of the entire specifications and the proposal, it appears that this was not a material change especially since he met the requirements and everything else seemed to be in order. He stated this did not give Townscapes a competitive advantage given the correction.

Mr. Santarsiero moved and Mr. Caiola seconded to award the Bid to Townscapes, Inc. in the amount of \$13,136 pursuant to the Stipulation of their agreement to use triple-ground hardscape bark.

Mrs. Godshalk stated it is a Federal law, and they included at her request in the Contract with Kemper for the Golf Course, that there be no illegal aliens hired; and she knows a lot of the landscape companies do hire these people. She stated she is not sure that this was put in the specs. She stated they must make sure that this is covered in the Contract. Mr. Truelove noted the second to last paragraph which states "Contractor shall be required to perform the specified services and comply with all applicable workmen's compensation, employer's liability, and other Federal, State, County, and Municipal laws,

Ordinances, rules and regulations applicable to the location stated above.” He stated he feels this should cover Mrs. Godshalk’s concerns. Mrs. Godshalk stated this was said when they had the Contract with Kemper, but they also added that on its own. Mr. Truelove stated he feels for future Contracts, he would recommend this. He stated he feels if this becomes an issue in this instance, it will be covered, but going forward he feels they should include this.

Mr. Joseph Lawrence, 1478 Makefield Road, stated he did his normal follow up call to find out how the Bids went; and he was told that he was the apparent low bidder since there was someone who was lower than their company, but they did not meet the requirements so that Bid was being disregarded. He stated Donna Liney checked his references, and then this afternoon at 3:30 p.m. he received a call that he was no longer the lowest bidder; and Townscapes was allowed to alter their original proposal that was sealed and submitted on Friday, March 30. He stated he was looking for an explanation as to why they were allowed back in when their original Bid was disregarded and wanted to know if it was common practice to allow someone to alter the Bids after they have been submitted.

Mr. Truelove stated he feels what occurred in this instance was that they corrected the Bid as opposed to altering it; and had there been a substantial material change, the argument would be well founded.

Mr. Lawrence thanked the Township for the explanation.

Motion carried unanimously.

CONFIRMATION OF MEETING WITH DELAWARE VALLEY REGIONAL TOLL BRIDGE COMMISSION

Mr. Smith confirmed the meeting with Delaware Valley Regional Toll Bridge Commission regarding Scudders Falls Bridge Project will be May 2, 2007.

APPOINTMENTS

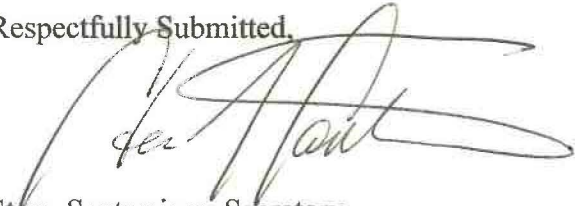
Mr. Caiola moved, Mr. Stainthorpe seconded and it was unanimously carried to appoint Phil Tyler to the Sewer Authority.

April 4, 2007

Board of Supervisors – page 31 of 31

There being no further business, Mr. Stainthorpe moved, Mr. Santarsiero seconded and it was unanimously carried to adjourn the meeting at 11:35 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steve Santarsiero", written over the text "Respectfully Submitted,".

Steve Santarsiero, Secretary

