

TOWNSHIP OF LOWER MAKEFIELD  
BOARD OF SUPERVISORS  
MINUTES – MAY 15, 2024

The regular meeting of the Board of Supervisors of the Township of Lower Makefield was held in the Municipal Building on May 15, 2024. Mr. Lewis called the meeting to order at 7:30 p.m. and called the Roll.

Those present:

Board of Supervisors:            John Lewis, Chair  
   Suzanne Blundi, Secretary  
   Matt Ross, Treasurer  
   James McCartney, Supervisor

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

Absent:                                Daniel Grenier, Board of Supervisors Vice Chair

COMMUNITY ANNOUNCEMENTS

Mr. Lewis stated during this portion of the meeting, residents and youth organizations may call in to make a special announcement about things that are happening in the community or they can e-mail the Township at [admin@lmt.org](mailto:admin@lmt.org) to request a special announcement be added to the Agenda. There was no one wishing to make a special announcement at this time.

Mr. Lewis stated the Parks & Recreation Department is hiring for Summer Camp positions. To apply please visit [www.lmt.org](http://www.lmt.org).

Mr. Lewis stated you can Register for the Pool at [www.lmt.org](http://www.lmt.org).

Mr. Lewis stated if you have some free time on the weekends and would like to volunteer your time, you can join the Friends of Five Mile Woods Clean-Up days. They are held the second Saturday of the month at the Five Mile Woods starting at 8:30 a.m. Please come in comfortable clothes that you do not mind getting dirty and bring work gloves and water to stay hydrated. Projects for the day will include litter clean-up, trail lining, and pruning, as well as boardwalk repairs. If you have any questions e-mail Monica Tierney at [monicat@lmt.org](mailto:monicat@lmt.org).

Mr. Lewis stated the Lower Makefield Yard Waste Drop-Off site will be open Saturday, May 18<sup>th</sup> between the hours of 7:00 a.m. and 3:00 p.m.

Mr. Lewis wished best of luck to the Odyssey of the Mind Team from Quarry Hill Elementary School as they prepare to represent our community at the Odyssey of the Mind World Finals to be held next week at Iowa State University. The Team successfully qualified for the World Finals after competing in Regional and State-level competitions over the last several months. Pennsbury had nine teams compete at the Regionals with six teams advancing to States, and the Quarry Hill team is the lone team to represent Pennsbury at the World Finals this year. He offered congratulations and good luck to all involved including Mr. Grenier's daughter who is part of that team.

Ms. Blundi thanked all those who donated blood earlier this month, adding we again surpassed the goal that the Red Cross had set for us. An extra date has been added for the summer as there continues to be a shortage of blood. She stated those interested can donate whenever they want by going on the Red Cross' Website.

#### PUBLIC COMMENT ON NON-AGENDA ITEMS

Ms. Sue Fawcett stated she is a Township resident and volunteer for the Township helping organize the advanced level pickleball group. She stated the Parks & Recreation Board suggested she appear before the Board of Supervisors to implement a solution she proposed at their meeting last evening regarding the high pickleball user fees. She stated the fees were increased from \$27 a year to \$120 a year, and members are "leaving in droves" to play at the new Middletown Township pickleball facility and elsewhere. She stated Lower Makefield's courts are in very poor conditions, and the members were expecting that the \$120 per year would help pay for those repairs; however that is not the case as the user fees go for operational expenses and not capital improvements. She stated attendance at her advanced-level group dropped to zero, and she has no one to play with. She stated prior to the fee increase, the courts "were packed." She stated there was also a significant drop at the intermediate level of play.

Ms. Fawcett stated It was indicated at last night's Park & Recreation Board meeting that there is a significant drop in the number of people joining the Township Pool, and it was indicated that there is a large revenue gap between last year and now. She stated fee increases are not just impacting pickleball.

Ms. Fawcett stated her proposed solution since the Township has a deficit is that the Township privatize the Golf Course which will generate enough working capital to improve the multi-purpose pickleball facilities and courts as well as remove or reduce the User Fees for other recreational activities. Ms. Fawcett stated the Park & Recreation Board advised her that the Board of Supervisors has jurisdiction over the Golf Course.

Ms. Fawcett asked why Golf, which is a recreational activity, is not organized under the Park & Recreation Board; and she asked if it is due to the legal issues or funding needed to pay for the \$3.3 million Judgment when the Township lost the Eminent Domain Case.

Ms. Fawcett stated when the Township privatized the Sewer system, the rates went up; but at the Golf Course, rates would not be an issue because Township residents would no longer have to support a recreational activity that benefits a very small number of residents. She stated the Township page for Makefield Highlands stated that Makefield Highlands is an ideal destination for weddings, banquets, and special events; and she feels this is “very different from selling snacks at the Pool,” and the Township is not in the catering business. She asked that there be a Motion introduced to discuss privatizing/selling the Golf Course. She stated while she knows this was discussed previously, she feels it is time to re-introduce this idea.

Mr. Lewis stated the Golf Course is an asset of the Township, and they need to consider how much the asset would be valued if it were to be sold versus its value as an on-going concern. Mr. Lewis stated some years ago Golf was very popular and Golf Courses were built all around the Country; but there are now too many Golf Courses in certain parts of the Country, and the value of Golf Courses is not as great. He stated when the Township was discussing the sale of the Sewer system, it had been brought up if we could sell the Golf Course; however, at that time, selling the Golf Course would not have yielded enough money to cover the remaining debt on the Golf Course. He stated \$5.3 million was the Dalgewicz family Settlement in 2013. He stated the Golf Course’s value as an on-going concern is greater than the value if it were to be sold.

Mr. Lewis stated it is also possible that if we were to decide to sell the Golf Course, a new owner may decide to put in housing or something else. He stated the Township does not feel selling the Golf Course is a solution that is worth considering.

Ms. Fawcett stated she would like that to be re-visited since if the Board is indicating that they would not want to sell it because someone may want to put homes on it, that would be for the Planning Commission. Mr. Lewis stated he is saying that if it were to be sold the value would not be enough to warrant making that change versus it operating as a going concern. Ms. Fawcett asked if it would cover the deficit that we currently have. Mr. Lewis stated Ms. Fawcett is looking for assets to sell so that we have more money, but if we want more money we can raise property taxes recognizing that there is a cap. He stated while selling that asset would generate money, that is not always the best decision.

Ms. Fawcett stated the financial aspects of the Golf Course are not transparent on the Township Website. She stated there is only one Golf Committee report, and it is very difficult to find what the actual monthlies are on the Golf Course since there is nothing posted in any significant detail on the Website under the Golf Committee.

Ms. Fawcett stated the Golf Course is running at a loss; however, Mr. Lewis stated it is not running at a loss. He stated the Golf Course makes more money than it costs, and it has a surplus value. He stated most of that surplus is used for Debt Service and Capital Expenses. He stated much of the Debt Service has been eliminated, although there is still some left. He stated the Golf Course will be generating a significant amount of money that will be brought into the General Fund in the future. He stated if we were to sell it, we would lose that Revenue stream. He stated the Township is in a better financial position by holding onto the Golf Course and managing it well. He stated an outside group handles the catering, and it is important that we get revenue from that.

Ms. Fawcett stated she is trying to find a revenue source so that the user fees can be dropped for the people who use Parks & Rec services. Mr. Lewis stated the challenge is that there are costs to run pickleball, and the Parks & Rec Department looked to solve that problem as there were expenses related to pickleball that were not being covered. He stated other Municipalities have a different approach to Parks & Recreation. He noted Northampton Township runs their youth sports Leagues in many cases but Lower Makefield allows for private entities to run youth sports programs which is a policy difference.

Ms. Fawcett stated what she discussed at the Park & Recreation Board meeting was that there is no charge for tennis yet we use the same multi-purpose facilities. She stated she feels there is some discrimination of tennis against pickleball.

Mr. McCartney asked Mr. Kratzer how much the pickleball fees generate; however, Mr. Kratzer stated he did not have that information available at this time.

Ms. Fawcett stated there is a Township employee dedicated to pickleball and there are fees for that; and the other sports do not have a dedicated employee. She stated maybe that could be changed to a volunteer to reduce that expense.

Mr. Kratzer stated when the Board reviewed the comprehensive Fee Schedule update, the Reservation Fee was shown to generate \$2,180 with close to \$600 for direct costs associated with CourtReserve. Ms. Fawcett stated the Rental Fees “were pushed through without discussing policies,” as the Board of Supervisors approved the Amendment to the User Fees before the policies were discussed as the Park & Rec Board only discussed those last night. Ms. Fawcett stated those fees are an experiment for Memorial Park, and her objection to that was that they cannot enforce the Rental Fee Policy the way it has been structured.

Mr. McCartney stated he knows that the Golf Course generates significantly more than pickleball, and we might want to consider privatizing pickleball.

#### CONSENT AGENDA ITEMS

Ms. Blundi moved, Mr. McCartney seconded and it was unanimously carried to approve the following Consent Agenda items:

- Approval of the Minutes for the May 1, 2024 meeting
- Approval of Warrant List dated May 15, 2024 as attached to the Minutes
- Acknowledge receipt of a Grant of Time Extension for the Torbert Farm Subdivision
- Acknowledge receipt of a Grant of Time Extension for the 1511 Lindenhurst Subdivision until August 7, 2024
- Accept the Bid from Zone Striping, Inc. in the amount of \$50,497.55 relating to 2024 Roadway Line Painting
- Cancel the Board of Supervisors Meeting scheduled for Wednesday, July 3, 2024
- Approve Financial Security Release #3 (Final) in the amount of \$57,240 for The Reserve at Manor Lane conditioned upon the developer posting the required 18-month Maintenance Bond

COMMUNITY DEVELOPMENT

Briefing by Joel Winston, Esq, Cohen Law Group, Re: Wireless Facilities Ordinance

Mr. Winston stated Cohen Law Group practices Telecommunications Law exclusively for Municipalities in the Commonwealth of Pennsylvania and some other States. He stated they do not represent any wireless or cable companies. He stated they have worked on an update to the Township's existing Code with respect to the language on wireless communication.

Mr. Winston stated included in the Board's packet was the proposed Amendment to the Ordinance, an updated Wireless Fee Schedule, and a set of Design Guidelines for 5G wireless facilities. He stated the proposed amendments will update the existing Lower Makefield Code language on wireless communications to reflect the changes in State and Federal Law in mobile communication technology. He stated Part 2 of the Township Code is proposed to be amended with the adoption of a Chapter 195. He stated the newest generation of wireless, broadband technology is 5G which requires the installation of thousands of small-cell facilities throughout the Commonwealth. He stated under Federal Law, these 5G facilities are defined as small, wireless communications facilities; but under the marketing terminology, they are known as 5G.

Mr. Winston stated in 2018 the FCC issued Orders relating to the installation and management of these 5G facilities including the manner in which local Government can regulate them. He stated these new FCC Regulations were issued in accordance with Federal Law - the Telecommunications Act of 1996. He stated in 2021 the Pennsylvania Legislature enacted the Small Wireless Facilities Deployment Act which addressed the 5G wireless facilities, and that language mirrors that of the FCC Order although some elements of the State Law are more restrictive than the Federal Regulations.

Mr. Winston stated the proposed amendments to the Township's Wireless Communication Facilities Ordinance would update the definitions and the categorization of all available Commercial, mobile wireless technologies including 5G. He stated under the proposed language, all wireless communications facilities are classified into one of three categories – either they are a tower-based wireless communications facility, a non-tower based wireless communications facility, or a small wireless communications facility, which is the 5G facility. He stated it is not actually small, but that is the language used under the definition. He stated the Federal Regulations contain a definition of what the size of that facility can be that would categorize it as a small wireless facility.

Mr. Winston stated the tower-based facility is either a tower, lattice, or a mono-pole type facility, and the non-tower facility is a wireless antenna attached to any other type of support structure such as an apartment building, water tower, steeple, etc. He stated the category of the facility that an Applicant/Operator is using will determine the applicable set of Township Regulations that apply.

Mr. Winston stated the proposed Amendments incorporate State Law, Federal Law, and the FCC Regulatory Orders and cover four broad categories. He stated those categories are local Zoning Authority, the Application shot clock, the Application and Annual Fees, and the Wireless Facility Design Standards.

Mr. Winston stated with regard to local Zoning Authority, the proposed Amendment protects local Zoning Authority over wireless facilities to the maximum extent allowable under State and Federal Law; and the strongest expression of these protections is the Telecommunications Act of 1996 which preserves local Zoning Authority over the placement, construction, and modification of personal, wireless services facilitates provided that the Zoning Authority is not used to “prohibit or have the effect of prohibiting wireless services,” which is the language under the Federal Law. He stated the language was drafted in 1996, and since then it has been the source of much litigation and Court Orders as to exactly what it means.

Mr. Winston stated in 2018 the FCC issued its own Order further defining and updating what a prohibition of wireless services means. He stated under those Orders it indicates that the exercise of Zoning Authority by a Municipality can cause an effective prohibition of wireless service where the Zoning rules “materially inhibit” a provider’s ability to provide service or deploy technologies. He stated it also indicates that the exercise of Zoning Authority must not discriminate between functionally-equivalent providers. Mr. Winston stated the proposed Amendments do not prohibit or have the effect of prohibiting wireless service, and they are not discriminatory against functionally-equivalent providers. Mr. Winston stated by codifying precise, enforceable regulations for all three of the facility categories, the Township is legally preserving the primacy of local authority over Zoning determinations involving these types of facilities.

Mr. Winston stated the proposed Amendments specify the Application and Approval requirements which are Conditional Use for tower-based and non-tower wireless facilities and Administrative Approval for small wireless facilities.

Mr. Winston stated the shot clocks mirror those of the FCC Regulations; and once a newly-filed Application is received by the Township the shot clock begins and the Township is required to review and reach a determination on the Application within a certain period of time. He stated the times will vary based on the type of facility. He stated failure to act by the Township to meet the deadlines will create a presumption of failure to act which would enable an Applicant to obtain an Injunction in Federal Court to grant the Application as submitted. He stated the Township has ten days after the submission of any Application package to review the Application for completeness; and if the Application is incomplete, the Township notifies the Applicant, and that pauses the clock until the Applicant files all necessary paperwork. He stated filing of a complete Application starts the shot clock. He stated for a new tower-based or non-tower-based facility Application, the shot clock deadline is 150 days from the receipt of the completed Application. He stated for a small wireless facility, the shot clock deadlines are 60 days from the receipt of a completed Application for a new antenna onto an existing pole and 90 days for a new pole and a new antenna. Mr. Winston stated the FCC requires that any Denial of an Application for the siting of a wireless facility must be made in writing and supported by "substantial evidence." The proposed Amendments reflect these requirements.

Mr. Winston stated with regard to Application and Annual Fees, the proposed Amendments mirror the FCC regulations and the allowable Annual and Application Fees that the Township can charge. He stated for a tower-based facility, the Application Fee is \$2,500 per facility and for a non-tower-based facility, the Application Fee is \$1,000 per facility. He stated for small wireless facilities such as an antenna that goes onto an existing pole or support structure, the Application Fee is \$500 for up to 5 facilities in a single Application, and for a small wireless facility that requires the installation of a new pole as well as the antenna, the Application Fee is \$1,000. Mr. Winston stated if the Township's costs are greater than the \$500 or the \$1,000 discussed, there is the possibility that the Township can assess its reasonable costs to small wireless facility Applicants. He stated the Fees for these small wireless facilities should cover the Township's reasonable costs for reviewing and processing these Applications.

Mr. Winston stated tower-based and non-tower-based facilities are never installed in the public right-of-way, and they are always on private property. He stated the Township cannot charge recurring, Annual Fees for those two types of facilities. He stated typically the operators of those facilities will



pay the owner of the private property monthly or annual fees. He stated small wireless facilities, due to the FCC Order, are almost always installed in the public rights-of-way; and therefore the Township is entitled to collect an Annual Fee. He stated the annual amount that the Township can charge is \$270 per small wireless facility per year. He stated if the Township has reasonable costs that exceed \$270, there are mechanisms to increase that amount. He stated fundamentally the FCC holds the position that local Municipalities should not be subsidizing the development of private, commercial wireless facilities; but the FCC does want to insure that Municipalities cover their costs and nothing more and the Application and oversight process is not meant to generate Revenue for a Municipality. Mr. Winston stated the proposed Amendments will require Applicants and Operators to pay the required Fees, and the Fees will be incorporated into the Master Fee Schedule.

Mr. Winston stated the Design Guidelines apply to all three types of facilities. He stated tower-based and non-tower-based facilities are subject to review and determination by the Board of Supervisors in accordance with the Conditional Use Approval process in the Township's Code. He stated this also includes aesthetic and land-use impact reviews. He stated the proposed Amendments would require all facilities to employ the most current cell technology available to appropriately blend into the surrounding environment and to minimize all aesthetic impacts. He stated cell technology has camouflaging methods that will render them more-visually appealing or *enable them to blend into the existing structure or visual backdrop.*

Mr. Winston stated as proposed the cell technology chosen by the Applicant will be subject to the approval of the Township. He stated no wireless facility can be installed or built on a structure that is listed on the Historic Register or is located in a Historic District. He stated there are protections for local areas of community interest as well if there are other Districts or sensitive areas. He stated the proposed Amendments require that any tower-based facility is to be designed structurally, electrically, and in all respects to accommodate both the tower-based facility, their Applicant's own antenna, and also additional antenna from other Commercial carriers in the future. He stated mandatory co-location is required. Mr. Winston stated all utilities that would be extended to those facilities would be required to be placed underground. He stated there are other prohibitions on artificial lighting and noise.

Mr. Winston stated there are Design Guidelines for small wireless communication facilities, and those are incorporated by reference into the Ordinance in order to provide flexibility and control to Municipalities over small wireless

facility aesthetics because the technology and FCC Regulations continue to change with respect to the Design Guidelines for those types of facilities. He stated publishing the Design Guidelines in advance enables them to be enacted and to apply to all small wireless facilities that are proposed.

Mr. Winston stated the type of oversight and management from the Township has an impact on the types of the facilities, the design of the facilities, and how those facilities are sited.

Mr. Winston stated the proposed Ordinance mirrors the existing regulations in terms of the placement as to where the facilities are located. He stated the Zoning Map has not been altered or amended, so it is primarily the Telecommunications Overlay District. He stated this is the final ongoing issue in order to determine the placement of the tower-based and non-tower facilities, and how the Zoning Map can be amended in order to provide for the location of these facilities throughout the Township in a way that does not prohibit or have the effect of prohibiting wireless services.

Mr. Lewis asked if there is anything we have not considered to add in the Ordinance to maximize the rights of the Township as it specifically relates to tower structures. Mr. Winston stated they have included all of the maximum available protection as it relates to tower structures in terms of Application review under Conditional Use as well oversight during the operation of a tower; and if there are any emergency issues related to health or safety, the Conditional Use Permit can be rescinded. He stated there are also requirements for insurance coverage and a Bond to include the future cost of removal so that if the tower operator were to abandon the facility, there would be enough funds for the Township to cover the cost of removing the facility. He stated the Township could also attach a tax lien to the underlying real property on which the tower sits.

Mr. Lewis stated he knows that the shot clocks are mandated by the FCC. He stated most of the Applicants the Township will see will be very large telecommunication companies; however, frequently Bonds are not set up and Fees are not paid. He asked if the shot clocks start when the checks clear. Mr. Winston stated there are only a few operators that would come in for an Application for these types of facilities which would include the large telecommunication companies as well as third-party operators who specialize in building out infrastructure. He stated the Ordinance requires certain documents, information, and the proper payment up front before the shot clock starts. Mr. Winston stated Application Fees are non-refundable.

Mr. Lewis stated there are some dead zones in the Township, and he asked what are the tools that we could use to help get small wireless facilities in these dead zones to get coverage for those sections of the Township. Mr. Winston stated the enactment of an updated Wireless Ordinance is seen as favorable by the telecommunication companies because they understand that they are working with a Township that understands the rules and regulations. He stated it is a sensitive issue with respect to the Township Zoning Map, existing Zones, and the existing Overlay District; and it is difficult to look at the map and discern where the dead areas are. He stated in the past they have requested information from wireless carriers who have provided some mapping information, but generally it is not sufficient to use for the re-drafting of the Overlay District. He stated they have worked with third-part engineering firms that specialize in Municipal clients, and they will go out and build the maps by identifying through public and private records all of the existing wireless facilities; and they will visit them, photograph them, denote the power and how they are broadcasting, and they then use their own computer programs that will take into account the different densities, the topography, and the seasons to create propagation maps which show where coverage is and if there are any gaps in coverage where coverage needs to be extended.

Mr. Winston stated looking at the Overlay District, he would be concerned that there are not enough areas for the full deployment of tower-based and non-tower based wireless facilities. He stated small facilities can go into areas where public utilities are above ground, and under State and Federal Law they are permissible by right in all public areas; however, they may not be sufficient or the cost to deploy them may be too great to a telecommunication company versus the comparable cost to deploy a tower in the area. He stated the re-mapping of the Telecommunication Facility Overlay District is the most difficult element of re-drafting this Ordinance.

Mr. Lewis asked if we were to consider changing the Zoning Map could we bifurcate sections for tower-based wireless facilities versus small wireless facilities. Mr. Winston stated each of the three categories – tower-based, non-tower, and small can be treated separately. He stated under Federal and State Law, small wireless facilities are permitted by right in all areas. He stated the way they have drafted this and many other Ordinances in the Commonwealth in any area where all utilities are to be underground, including telephone and other comparable telecommunication facilities, we require small facilities to also be underground. He stated wireless facilities cannot be underground so they have been able to use ancillary Zoning Districts to reach coverage from non-tower facilities to find ways

to make up so that we were not violating the no prohibition on wireless service directive under Federal Law. He stated this is an issue that is playing out across the Country as to what the precise balance of Zoning authority is between the Municipalities and telecommunication companies.

Mr. Lewis asked if there would be a benefit to talk to a smaller telecommunication infrastructure provider to work through gaps in service which would result in the possibility of royalties to the Township if it would be placed on Township property. Mr. Winston stated the Township could collect rent for any facility sited on its property. He stated there is a preference priority included that if there are Municipal facilities available, that wireless Applicants look there first to site; but that is just a preference and not supported under Federal Law or Regulation. He stated if there are small carriers, local networks, or anyone that the Township could talk to, that would be encouraged; and there is no prohibition on reaching out to encourage development especially if there are known areas the Township would want to identify gaps in coverage.

Ms. Fawcett stated she has experience in spectrum management and frequency planning, and she asked who coordinates the placement of the transmitters and receivers amongst the different services. She stated we also have Fire, Police, and public maintenance workers who are on towers. She stated they have to have an engineer evaluate this and wireless and Police service cannot be put on the same tower without someone with experience in radio frequency design making sure that they will not interfere with each other. She stated no one is thinking about the aggregate. She stated she agrees with Mr. Winston about creating the maps since radio waves reflect off of buildings and are absorbed by trees. She stated she wants to make sure that there is coordination not just from legal, but also from an engineering perspective when towers are added.

Mr. Kratzer asked Mr. Winston if there are any requirements to address the concerns raised by Ms. Fawcett. Mr. Winston stated there is language in the proposed Ordinance that protects public safety communications. He stated when the wireless operators place one of these facilities, it is the result of years of engineering and research in placement; and they are very deliberate as to how they do it. He stated they are seeing more often the updating of existing antenna with newer technology rather than the construction of new towers. He stated the carriers do consider interference, coordination, and placement of their facilities. He stated they all have their different business strategies, maps, and software which is

why it is not entirely uniform; but they do tend to co-locate with multiple antennas on the same type of facility. He stated they make sure that they avoid interference.

Ms. Fawcett stated she feels it is the Township's responsibility to communicate to the communication engineer who is applying and give them the technical specs. Mr. Winston stated the Applicants are required to identify any other existing facilities that they have within a quarter mile radius. He stated the creation of a map can be a challenging process, and third-party engineering firms they have worked with have their own software; and rather than what the telecommunication companies are representing, these engineering firms can create the maps and they do take into account the variations in seasons. Mr. Winston stated the change of more people working from home has also had an impact as to stress on the network.

Mr. Winston stated the RF emissions are regulated exclusively by the FCC, and no Municipality can adjust or change them. He stated the Ordinance does provide the Township with the maximum oversight so that any wireless operator must comply with the FCC standards. He stated the Applicant has to certify up front through a third-party professional engineer registered and Licensed in Pennsylvania that they meet the RF emissions standards; and there are bi-annual requirements to continue certifying the RF emissions. If any maintenance or other work is done, they have to re-certify the RF emissions. He stated if at any point the Township has a reasonable concern that the RF emissions are exceeding what the FCC levels are, an RF test can be demanded; and if it is found that they are exceeding those regulatory levels, the Township has the authority to revoke the Permit.

Ms. Fawcett stated this was her area of specialty, and she is willing to help the Township if they need interpretation or she can offer her opinion. Mr. Winston stated they are always ready to provide additional explanation, support, and regulatory guidance as to where the changes in the Ordinance are coming from.

Mr. Lewis stated no action is needed this evening, and Mr. Kratzer stated they just wanted to make sure that the standards are consistent with the various levels of Law that exist and provide protection to the residents. Mr. Lewis stated he assumes that this will be advertised for consideration at a future meeting, and Mr. Kratzer agreed.

ENGINEERS

General Project Updates

Mr. Kessler stated the Board was provided the Engineer's Report in their packet. He stated with regard to the Highland Drive Drainage Project they have received feedback from some of the utilities and received their Fees, and the package should be submitted to the DEP shortly. He stated they will update the schedule for this project once the Permit is submitted and the stages that will follow that.

Mr. Kessler stated with regard to the 2024 Road Program, they held the pre-construction meeting with James Morrissey on May 7; and there is a schedule for when they look to move forward. There is concrete work with that Contract for the ADA ramps as well as some inlet top replacements, and typically that would be done prior to them milling and paving.

Mr. Kessler stated with regard to the Woodside Road bike path, the new poles are in the ground, and the majority of the electric wiring has been completed. He stated tree trimming has been completed. There are still some things on the old poles including Verizon and other telecom, and they will move their equipment themselves once PECO has completed their work. He stated PECO will then come back and remove the old poles. Mr. Kessler stated they have met with the contractor who constructed the trail, and they are on standby to come back and provide details on the work that would remain once the old poles are removed.

Mr. Kessler stated with regard to Grant Funding, they submitted the DVRPC Trails Grant at the beginning of the month for the crossing of Taylorsville Road connecting the trail system in that area. He stated they are also looking at the Taylorsville stormwater and sidewalk project which would go along Taylorsville Road and connect to the Borough. He stated this fits well with the MTF Grant that is due mid-July, and they are working with the staff on the Application to make it attractive to get funding.

Mr. McCartney asked how the schedule for paving is determined. Mr. Kessler stated they look to not disrupt the School schedule. He stated the School year ends on June 14. He stated during the pre-construction meeting it was discussed that the road work would not start until the following Monday. He stated they also coordinate with any bus stops for the concrete; and if there is an opportunity to start that beforehand they will do so, but otherwise that would also wait until those corners are no longer being used as bus stops so that the ramp work can be done at those corners.

Mr. Lewis asked the status of the Big Oak and Pine Grove Roads intersection improvements. Mr. Kessler stated the Township traffic engineer had initially provided PennDOT with information for that intersection, and PennDOT came back with some items they wanted to see included in the package. He stated the next step would be to have a more-complete survey of the intersection, and they are looking to schedule that shortly and get it back to PennDOT.

Mr. Lewis asked about Regency at Yardley South punch list/NPDES Plan revisions. Mr. Kessler stated there was a walk-through with the developer/contractor team on April 30 for the punch list that was put together some months ago following meetings and coordination with the HOA and the inspection team. Mr. Kessler stated the contractor is looking to complete those items with a goal of the final paving being done in the fall. He stated the last thing to include would be an assessment of the trees and plantings that are part of the approved Plan, and he is looking to get the complete list to the contractor within the next two weeks so that the engineer can verify that all the items are completed.

Mr. Lewis noted at the Flowers Field Subdivision there is an eighteen-month post-Dedication Maintenance Bond inspection, and Mr. Kessler stated they will verify that that has been completed with nothing outstanding; and they will bring that to the staff in May.

Mr. Lewis noted the 1273 Lindenhurst Road re-submission for compliance for Conditions of Approval, and asked if that is expected soon. Mr. Kessler stated the review letter was issued on April 26, and the cost estimate for the Escrow was issued on May 2.

## FINANCE

### Presentation by Maillie LLP of the Audited Financial Statements for the Year Ended December 31, 2022

Mr. Greg Shank and Mr. Mike Gentile from Maillie LLP were present. Mr. Shank stated they oversaw the Audit review process. He stated the Board had been provided with the Audit Report, the full financials, and the SAS 114 and SAS 115 letters. Mr. Shank stated these are the Township's financial statements, and Maillie's purpose was to do an Audit in order to provide an opinion with reasonable assurance that the Township is following U.S. generally-accepted auditing standards. He stated the opinion the Township received on the

financial statements is an un-modified, clean opinion which means that the Township followed the standards of U. S. GAAP, and there are no qualifications on the opinion.

Mr. Shank stated during 2022 a substantial standard was implemented which was GASB 87. He stated that has to do with Leases which originally were certain Leases that were not recorded as liabilities, but there was a footnote. He stated this new standard had the Municipality put the full liability of the Lease so that if there was a ten-year Lease, it was put in as the full ten-year liability and then a corresponding asset such as a right-of-use asset; and that asset would be amortized. He stated this shows the reader the total liability, and you amortize the asset as you pay down the Lease.

Mr. Shank showed a slide of the Net Position of Governmental Activities. He stated there are two basis of accounting utilized for two different statements – the Governmental Fund and Governmental Activities which are based on full accrual and the Government Fund Statement which is a closer depiction of what the Budgeting process is. He stated on the Government Statement, Debt is not shown as a liability, but on the Government-wide Statement it is shown. He stated the Government-wide more closely depicts what you would see on a for-profit which includes all the debt, and the fixed assets are capitalized. He stated what is shown is the Governmental Fund Activities and the Net Position of the Government-wide Statements. He stated there was an increase of approximately \$26 million from 2021 to 2022 most of which was a result of the Sewer sale proceeds. He stated there was about \$23.9 million which went into a Sewer sale proceeds account which is included in the \$100 million shown.

Mr. Shank showed a slide of the Government-wide Statement for Accrual, and this shows the changes in Net Position. He stated Revenues went up about \$19 million to \$24 million primarily due to almost \$1.9 million of ARPA Funds that were spent in 2022 and that was then brought into Revenue. He stated there were also increases in Real Estate Transfer Tax. Mr. Shank stated the Expenditures went from \$19 million to \$26 million. He stated there were general inflationary items included there, but Government-wide the Pension liabilities in accordance with GASB 68 are put on the books; and as those fluctuate, the difference goes to the Expenditures. He stated in 2022, the investment market was not good, and those losses in the Pension increased the deficit, and that drove up Expenses.



Mr. Shank stated with regard to Net Transfers, since this is a Government Fund, the Sewer sale is reported as an Enterprise Fund; but the money that was transferred into the Special Fund Holding the Reserves is in the \$28 million transfer.

A slide was shown of the Net Position of the Enterprise Funds. He stated these are full-accrual. He noted the Sewer as a net asset of \$5.6 million adding that most of the net proceeds were transferred out into the Sewer Sales Proceeds Fund. He stated they went into the year with \$6.6 million in cash, and there is probably \$7.5 million in cash at the end of the year recognizing that they are netting liability. He stated at the Pool there was an increase of about \$57,000 with \$786,000 of net assets. He stated Golf had about \$14 million. He stated most of proceeds of the Sewer sale were used to pay off the debt, and that increased the net asset.

A slide was shown of the changes in the Net Positions of the Enterprise Funds and this is where the Sewer sale comes into Revenue. He stated there is about a \$35.2 million gain in the \$42.9 million. He stated there was about \$53 million in proceeds; but when you record the gain, you are netting in writing off all of the fixed assets in the book value. He stated Expenses dropped because the Township only had the first quarter of the Sewer system operating. He stated there are also the net transfers of the \$28 million; and of that about \$23.9 million went to the Sewer Sale Proceeds Fund and about \$3 million of that went to the General Fund. He stated the overall net change was \$4.2 million.

A slide was shown of the General Fund Balance. He stated the rating agencies focus on Fund Balance of the General Fund. He stated at the end of 2022, the Fund Balance was \$4.755 million which was an increase from \$3 million from the prior year. He stated as a result of the Sewer sale there was a deposit which was a transfer in of \$3 million that increased the General Fund. Previously the general rule was to have two out of twelve months covered of total expenditures and the Fund Balance relates to financial resilience if a revenue stream is interrupted. He stated by the end of 2022, the Township was covering almost four months.

Mr. Lewis asked if the auditors sample Interfund Transfers in the Audit, and Mr. Shank stated they did. He stated the letters included recommendations. He stated they did see issues with transfers, and they reported those in the SAS 115 letter. He stated there were issues that they did not agree, and they were then corrected. He stated there were also some incidences where they

could see a transfer that actually happened in the Cash Account; but they were looking at the Board Minutes to see if they were approved, and they could not locate all of those approvals. He stated that was reported in the 115 letter.

Mr. Lewis asked if they noticed any contingent liabilities that the Board has not previously discussed or disclosed; and Mr. Shank stated as part of the Audit they always make inquiries of management, and they also get a legal letter to see if there are any legal contingencies. He stated there was one suit within the Sewer, and that was accrued by the Township because that liability was settled subsequent; but they are not aware of any contingent liabilities that are material to the financial statements that are not disclosed through their processes of going through and inquiring of management as well as the attorney.

Mr. Lewis stated in the past it was indicated that Lower Makefield has a favorable debt to equity ratio, and he asked if that is still the case; and he asked how the Township compares to other Municipalities. Mr. Shank stated every Township is different. He stated in 2022 Lower Makefield paid down a lot of debt so the leverage ratio decreased. He stated they are not seeing anything that a highly-leveraged Municipality might have.

Mr. Lewis asked if they are comfortable with the Balance Sheet that there is no immediate risk to the long-term safety of the residents of Lower Makefield financially. Mr. Shank stated they are reporting on a specific year and giving an opinion on that, and they are not able to speculate into the future.

Mr. Lewis stated some weaknesses were uncovered and some issues that the Township is addressing, and he asked Mr. Shank if he is comfortable that the Township has addressed all of those to his satisfaction. Mr. Shank stated they reported deficiencies and weaknesses in the 115 letter and to management, and they are aware that steps have been taken. He stated there was transition in management-level positions, and they know that Mr. Luber was recently hired in 2024 to aid Mr. Kratzer in addressing some of those issues. He stated as part of their Audit, they did not go forward and check, and that process will be done when the Township has their next Audit to see if any of those deficiencies are reported again. He stated the next Audit will look at the recommendations from the previous Audit.

Mr. Lewis thanked them for their service to the Township over the years, adding that the only reason we are switching auditors is because it is a best practice to switch frequently. Mr. Shank thanked the Township for the time they have had working with them, and he hopes that they will consider them for the future if they make another switch.

Mr. Luber stated he came on at the end of the process, and he thanked Ms. Stewart and the rest of the Finance team for their work on this. He stated with regard to Fund Balances, he stated there could be unusual expenses which is another reason to have sufficient reserves in the Fund Balance.

Approval of the Following Financial Policies: Fund Balance, Investment, Capital Projects Funding, and Debt Management

Mr. Luber stated these have been presented at previous meetings and some minor changes have been made including in the Investment Policy it was added that no more than 50% of our cash on hand would be invested in any one institution. Mr. Luber stated as Maillie stated the GFOA no longer takes a position as they did previously, but he is recommending 25% with a cap of 40%; and if we should exceed that cap of 40%, he and Mr. Kratzer would come before the Board to discuss that.

Mr. Kratzer stated the other item discussed with regard to Fund Balances had to do with how we fund and finance services. He stated the first quarter is limited in terms of tax revenue coming in which makes it even more important to have the target of 25% that Mr. Luber is recommending in order to cover expenses that happen in the first quarter of the year.

Ms. Blundi moved, Mr. Ross seconded and it was unanimously carried to approve the following financial policies: Fund Balance, Investment, Capital Projects Funding, and Debt Management.

Mr. Lewis asked about the banks being used by the Township; and Mr. Luber stated the money is invested with Penn Community Bank primarily as they have the daily checking and savings accounts. There is also money with Pennsylvania Local and Government Investment Trust (PLGIT), and we will be putting some money in Santander, William Penn Bank, and Univest Financial.

Mr. Lewis stated when bank losses occur, they are paid for by the banking industry with the bank insurance fund, and the FDIC charges premiums to banks to pay for that. He stated there were some concerns last year with some regional banks, but in all cases all depositors were made whole. He stated what is being proposed is just a good best practice, but he wants residents to feel confident about the banking system.

## MANAGER'S REPORT

Approval of Staff's Recommendation Relating to Public Meetings

Mr. Kratzer stated the staff has made recommendations regarding changes related to public participation, live streaming, filming, and televising meetings. He stated we periodically look at how we can maximize the efficiency of what we do, and this is an area where there are fairly significant costs that the Township is spending in terms of public meetings. He stated in trying to balance what we are required to do from a Statutory standpoint and what the public expectations are post-Pandemic, there is a recommendation before the Board concerning public meetings.

Mr. Kratzer stated as noted in the memo included in the Board's packet we are proposing no changes to how the Board of Supervisors, Planning Commission, and Zoning Hearing Board meetings are conducted; and they will continue to provide an option for people to participate remotely and in person, and meetings will continue to be uploaded to the Website, broadcasted on the PEG channel, and those meetings would continue to be live streamed via Facebook and YouTube as they currently are. They would continue to be televised live on the PEG channel as well. He stated it will continue to be done in a way where it is being professionally filmed.

Mr. Kratzer stated with regard to other Advisory Committees that operate within the Township's structure, we are recommending to continue to offer both Committee members and members of the public to be able to participate in those meetings remotely; however, we would look to make changes in terms of how we are managing the Zoom process to make it more self-managed which will reduce the costs associated with streaming. He stated the meetings would be recorded via Zoom and uploaded to the Web and broadcasted on the PEG channel, but they would not be live, and it would be after the fact. He stated we are also recommending some changes in terms of the service providers that are providing this service. He stated the intent of the recommendations are to meet the Statutory regulations which the Township has consistently exceeded as it relates to public participation in meetings with trying to encourage residents to be interested and active in local Government, but balance that with the costs associated with that and the respective return on investment with the investment that is being made. Mr. Kratzer stated these changes could result in not insignificant cost savings for the Township.

Mr. McCartney moved and Ms. Blundi seconded to approve the staff's recommendations relating to Public Meetings.

Ms. Sue Fawcett stated she is a Township resident. She asked if they will be able to watch the meetings live on YouTube; and Mr. Kratzer stated they will not be live streamed, although you could actively participate via Zoom and call in as a member of the public. Mr. Kratzer stated you could watch the meeting live via Zoom. He stated you would not be able to click onto Facebook or YouTube and see it live.

Motion carried unanimously.

#### General Updates

Mr. Kratzer stated there was a community project funding opportunity available through Congressman Fitzpatrick's office, and all of the materials have been submitted for that. He stated it was an \$8 million request, and we have been working with the Congressman's office and members of the various Committee staffs to make sure they understand the scope of the project. The \$8 million would go toward implementing some of the watershed-based planning efforts that were identified in the work that LandStudies had done for a number of improvements. Mr. Kratzer stated based on discussions so far, we seem to be well positioned and the Congressman has been very supportive as have our local State Representatives who provided letters of support as did the residents of Maplevale.

Mr. Kratzer stated with regard to Patterson Farm and some of the discussions related to environmental remediation, the Township staff has started to engage with painting contractors who have experience with lead-based paint matters and soil remediation contractors. He stated it was indicated that this would be the Township's contribution as the implementation is moving forward, and the Township staff should have more defined scopes for the Board's consideration in the near future.

#### SOLICITOR'S REPORT

Ms. Carlton stated the Board met in Executive Session immediately prior to the public meeting to discuss litigation matters.

Ms. Carlton stated her office is working on a number of drafts Ordinances, Resolutions, and other items that have been discussed in the past. She stated she also attended her first Planning Commission meeting, and there was a productive discussion with regard to signs as directed by the Board of Supervisors as well as issues concerning accessory dwellings and Zoning.

#### SUPERVISORS REPORTS

Ms. Blundi stated the Historical Commission has been very active. She stated the 250<sup>th</sup> Anniversary of the Country is coming up, and the Historical Commission has some ideas in that regard including reaching out to the Schools. She stated she has also asked them to reach out to some of our other Committees to see if there is something that we could do which would be even broader so that there are activities for everyone.

Ms. Blundi stated Mark Miller who was the chef at the Hamilton Grill in Lambertville for many years will be the new chef at the Golf Course.

#### APPOINTMENTS/REAPPOINTMENTS TO BOARDS AND COMMISSIONS

Ms. Blundi moved, Mr. McCartney seconded and it was unanimously carried to appoint Monica Hinden to the Historical Commission.

#### ADDITIONAL PUBLIC COMMENT ON NON-AGENDA ITEMS

There was no one wishing to make public comment at this time.

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

  
Suzanne Blundi, Secretary