

I. OPENING

CALL TO ORDER:

The Environmental Advisory Council meeting of Lower Saucon Township Council was called to order on Tuesday, April 13, 2010 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Sandra Yerger, Chairman, presiding.

ROLL CALL:

Members: Chairman, Sandra Yerger; Vice Chairman, Tom Maxfield; Hazem Hijazi; Ted Beardsley, Allan Johnson, Laura Ray

Associate Members: Colin Guerra, Glenn Kay. Absent: Chiharu Tokura and Tom McCormick

Planner: Kevin Kochanski – Boucher & James

Hellertown Liaison: Terry Boos

Jr. EAC Member: Sara Cote - Absent

PLEDGE OF ALLEGIANCE

II. OPEN SPACE SUB-COMMITTEE

A. PROPERTY UPDATES

1. GEOFFREY REIS – 3729 LOWER SAUCON ROAD

Mr. Beardsley said he, Colin, and Allan went out to see the Reis property. They are going to recommend it as there are a lot of environmental things going on there. Things they want to protect, there's wetlands, nice forests, which they already knew. The Open Space Committee is recommending that we move forward with it. He said he forgot the scoring sheet, but will drop it off at the Township tomorrow.

MOTION BY: Mr. Maxfield moved to recommend the Geoffrey Reis property be sent on to Council for an appraisal, with condition we get the review sheet as soon as possible.

SECOND BY: Mrs. Yerger

ROLL CALL: 6-0

2. CHARLES MARTIN – 2256 SILVER CREEK ROAD

Mr. Beardsley said they have seen the property quite some time ago. Things never went much further than their property inspection. He asked Mr. Martin what he would like to do next. Mr. Martin was present. He said he just didn't know the procedure. Mr. Johnson said one thing we should discuss right away because of the problem we're running into is he doesn't know what parts of the land Mr. Martin wants to keep and what parts he doesn't want to keep. In order for the land to be developable, there has to be at least a 50 foot swatch that connects that land with the roadway. You have to leave at least that much from your land in the front for that land in the back to be developable. Mr. Martin said he thinks there is enough room there to do that. Mr. Beardsley said we're a little confused. We're talking about access to the property behind his house so that it will appraise and we won't have the problem we had with other properties. Mr. Martin said he knows what he wants to preserve and what he doesn't. Mrs. Yerger said what we are saying is that the area you want preserved, if you would want a road there, as that's the way we would have to get it appraised, is there more than 50 feet there? Mr. Martin said yes. Mr. Maxfield said there would be no problem getting back there then. His question is that it meets Township standards for a Township road, like an entry and exit and 50 feet wide is the minimum. He's not sure if an easement section going through there would qualify. He wants to make sure we don't run into this block again. If it were to be developed, that 50

feet section would have to be subdivided off. We need to make sure that's a condition that can happen so we don't get stuck.

Mr. Beardsley said we will have to sit down with Chris Garges. Mr. Johnson said the part where he has road frontage, is the part he wants to keep out of the conservation. He needs two acres for his house and he'd need to save 50 feet to the east. Mr. Martin said who would own that 50 feet? Mr. Johnson said you would. Please explain to him what the problem is. Mr. Maxfield said in order to develop a property in the back, one that doesn't front up against a road, you need 50 feet and that meets Township standards for a road. He's guessing if, for instance, you would develop the property in the back, you would have to actually subdivide off 50 feet width from the front of your property and attach that to the property in the back so you would have legal access to the back. He's not too sure that a 50 foot easement would qualify under Township specific for a road. Then again, he doesn't know what your road frontage is. Mr. Martin said if he would subdivide it, then it would put him under two acres. Mr. Maxfield said it also puts you under the minimum width. Mr. Kochanski said there are a couple of issues with what's going to be developed and how much is going to remain with the house. The first one is lot width. If you are going to ultimately put in a right-of-way to provide access for future homes, that would have to come off the current lot frontage. That could not create any non-conforming issue with the remaining lot with the existing house or could not make a non-conformity worse. If that's not an issue, you could take your 50 foot access, hypothetical right-of-way, and the two acres can exclude that 50 feet and come out and be any configuration to get the two acres. Ideally, you'd like to keep it square, but it could be an L shaped parcel in order to get the two acres. Mr. Maxfield said he's guessing right now that we don't have 200 feet there. Mr. Johnson said you need 250 feet. What we're getting at is we ran into this problem before. If the land that the person wants to conserve is not developable, then we can't conserve it as it doesn't have any value. What we would need to be able to conserve that land in the back would be potential access of 50 feet off of Silver Creek Road, where a developer could build a road back to the land to develop it. If we don't have that 50 feet, then you could never develop the land in the back. We just had 160 acres, beautiful land and we were all excited about conserving it, and the man that owns it said he only has an easement from his land to the road, so the lawyer came back and told us you can't do it because he can't develop his land as he doesn't have access to the road. Mr. Kaye said it couldn't be developed, so there was no need to conserve it anyway? Mr. Johnson said what we pay for is the development rights to the property. If the property can't be developed, it doesn't have any development rights; and therefore, the development rights aren't worth anything. Mr. Hijazi said why are we discussing providing an easement if the land won't be developable without an access? Mrs. Yerger said the appraiser comes in and does an honest appraisal of what the land is worth, which is called raw land; and then they do a second appraisal on what the land would be worth if it were developed. The difference between the two is what they call the value of the development rights. That's what they are compensated. Mr. Hijazi said he understands that concept. He would probably need an access to the land that we are looking to conserve so it would be developable and there would be a value on it. Mr. Maxfield said we're talking about just getting it to the place where it can get appraised, trying to find circumstances that will allow an appraisal to happen. All these ones that wouldn't appraise before were all correctable by a zoning variance or a special exception or something like that, but an appraiser will not appraise a hypothetical situation.

Mr. Kaye said it sounds like in order for this land to be developed, we have to make it suitable for development. Mr. Maxfield said exactly. Mrs. Yerger said we're not creating anything. We are evaluating it on the potential and whether or not it has the potential. What Mr. Maxfield is talking about, this is what it would need to have the potential to be developed. This is the way the ordinances are written, so he's just telling you what the land would need, not what we are creating. What would have to exist on this land for this

appraisal to take place. Mr. Hijazi said is his land, right now, developable? Mr. Maxfield said that's what we're trying to figure out. Mr. Hijazi said he wants to keep the property in front for himself. Mr. Martin said he has to find that dimension. Mrs. Yerger said Chris Garges can pull out that information out.

Mr. Beardsley said on the Petrie property – same situation. The easement he's got to get into his property isn't wide enough to be a road. It's an easement and he doesn't own it. The people that do own it and who might want to develop their land, they might be perfectly willing to sell him enough property to put in a road at Township standards, then his property becomes developable. If he got an agreement to purchase that property from the neighbors, he could then come back to us and say he can get in there. If Charlie wanted to grow Christmas trees on that land in the back, all of a sudden, that field has a value. He's going to sell trees and he's going to make money, so there is a value even though it can't be a house, it can be something else. It's whatever the zoning ordinance permits on that piece of property in that zone. It permits houses on two acres if you have the frontage and you have the access, but it also permits other things. You could raise horses there. You can do all kinds of things there that would make you money. Our appraisers have to address that. They can't just look at what it's worth if you build a house. Mrs. Yerger said they can't put a value on "what if", and that's part of the problem. Mr. Maxfield said this property is developable and has development rights because you don't necessarily have to keep the house. The house could come down; the road could go in through there, so the whole entire property is going to have a development right value. That should not hinge on the fact that when we conserve it, we want to take out a chunk for the house, so it does have development rights. Mr. Johnson said we are going to have to run that past the appraiser and see if they agree. Mr. Maxfield said actually we need to say to the appraiser give us the development value of this entire piece of property. Even though we're not developing the entire piece of property, that entire piece of property has development rights. That's what we should be getting the value for. Then, what we do, in our conservation easement as far as subdividing sections of it, is after the fact. Mr. Kochanski said it's not necessarily subdividing sections off, there's the exception area that would not be part of the conservation easement. If that's two acres or ten acres, that's to the landowners choice and if that is developed in the future, then the landowner needs to figure out and come to some sort of decision process. Well, right now I don't have enough room to keep 50 feet for right-of-way and keep my house, so do I take the development or knock down my house. The tract as a whole would support x number of dwellings. Mrs. Yerger said we need to get the exact frontage. Chris Garges can run that. Just get your specifications to the property before you meet with Mr. Beardsley. Then you know exactly what you are dealing with. Mr. Martin said he knows exactly what he wants to conserve. Mr. Maxfield said the only possible snag would be if the road frontage you have is under 200 feet. Mr. Martin said he thinks it might be 298 feet. Mr. Kochanski said for your conservation easement, do you need to have road frontage? Mr. Maxfield said no, but he thinks you need to for an appraisal. Mr. Kochanski said you still have road frontage for an appraisal. You need to get back to your other comment that if that whole area, if your easements are outside it doesn't need to have road frontage. Mr. Maxfield said because it's one big existing lot.

Mr. Beardsley said they will sit down with Chris Garges and get a map and indicate what Mr. Martin wants to keep out and what he wants to keep in so the appraiser knows what part needs to get appraised. Mr. Johnsons said should we go out there again and look at it and do another evaluation? He doesn't know if we did an evaluation the first time they walked the property? Mr. Beardsley said no, they may have not did an evaluation. Mrs. Yerger said then you will have to meet and just walk the property. That might be easier, and then you can determine what he wants in and what he wants out. Mr. Beardsley told

Mr. Martin to give him call and they will get together. Mr. Maxfield said hopefully in the next couple of months we can order an appraisal and go from there.

3. BRUCE PETRIE – 2626 REDDINGTON ROAD

Mrs. Yerger said everyone got a copy of the letter. We put it on the agenda so everyone is aware of what is happening. Mr. Hijazi said it's not going to happen? Mrs. Yerger said not at this time. Mr. Maxfield said he did talk to Mr. Petrie on the phone and Mr. Petrie was going to attempt to talk to the attorney of the owners of the land right next to him. Mrs. Yerger said right now it's tabled and there's nothing more for us to do at the moment.

4. WILLIE SHELLY – 3981 SHERRY HILL ROAD

Mr. Beardsley said Shelly is the same thing as Petrie. Mrs. Yerger said there's a synopsis that went out. Everyone has a copy of it.

Mrs. Yerger said is there anything else? Mr. Beardsley said just the issue he brought up earlier that there are other things you can do besides build houses that have value and the appraiser should be addressing that. Mrs. Yerger said she doesn't know. Did you get a chance to talk to your friend in New Jersey? Mr. Beardsley said he did and he said there are two ways you can do it. He agreed with Mr. Beardsley and said there are agricultural things you could do and make money and make profit, whatever is permitted by zoning. You can have a stable there and rent horses there if it's permitted by zoning. There's lot of things you could probably do that is permitted by zoning. Mrs. Yerger said did he tell you how it's appraised then? Mr. Beardsley said he said sometimes the other alternative is to get a bargain sale where the people would donate the conservation easement and they get an appraisal of what the value of the easement is and they take the tax deduction from the IRS. We're out of it and they have to justify it to the IRS. He also thinks that Terry Clemons has dealt with this time and time again. He thinks we should talk to Terry. Mr. Hijazi said if the property is not developable, but the guy can use it to plant Christmas trees, why would the Township be interested in preserving it? Mr. Beardsley said maybe we don't want him to plant Christmas trees there. That's not a good example. Suppose he's going to raise horses there and he has big piles of horse manure, and it's upstream from some environmentally creek. He doesn't know what the zoning ordinance permits so he was just giving an example. Our policy is that if we spend Township money on it, they can't timber it. The Petrie property, there is timber there. If we don't conserve it, he can timber it. Mr. Hijazi said if you look at the general objective of this program, is it to prevent people from timbering or is it to prevent people from development? Mr. Kaye said it's to preserve the land in its natural state. Mr. Beardsley said there's different ways of looking at it. One of the things is we want to try to buy land that is developable because the whole idea behind the open space plan was to prevent further development if we could, especially in sensitive areas. There are a lot of sensitive areas in places that could not be developed. There are steep slopes, no access, etc. There's some feeling that those kind of places need to be protected in perpetuity because no one knows what a future Township Council is going to do to change the zoning that would permit building homes on steep slopes. Mrs. Yerger said you walk into a special exception or variance, it's not to say it can't ever happen. They keep saying they can't appraise it because they don't know the full spectrum of the variance. Mr. Hijazi said that's a good point. Going back to the main purpose of this program, we're not looking to preserve a land just because the guy was timbering it as opposed to the land that may be developed in the future. If we run out of all the land that could be developed in the future, then we can look at what he would consider a lower priority, such as timbering. Right now, at this stage, if there is land that could be developed, that's what we need to be focused on first. Mr. Beardsley said how many years do we have before the tax runs out? Mrs. Yerger said 1-1/2 years. Mr. Beardsley said if they are going to want to renew it, we are going to have to show we did something other than what we've already done. Mrs. Yerger said she also agrees. Do you want to put that in a formal request about going to Terry Clemons? We can certainly ask Council. If you want to voice that into a formal recommendation and/or request, then we can do that and have Terry review it. Mr. Beardsley said we should maybe talk to him on the phone first to begin with and then see where we are going from there. Mrs.

Yerger said if Mr. Beardsley could put those thoughts into an email and forward them to her and she will forward the email to everyone else, and if anyone wants to add anything, then she can send them to Mr. Cahalan and bring them up at the Council meeting and tell them this is a request from the EAC. Then we can put it in writing for next Wednesday. Please try to do it by the need of the week. Put your questions into the email pot and we can bring it to Council and ask that we go to Terry and decide whether it's easier to answer those questions in an email, phone call, or come here and meet with us. Mr. Beardsley should start the ball rolling and then everyone can jump in. We'll get it to Council next Wednesday. Mr. Maxfield said he thinks we need to find out exactly what it is that allows us to appraise or not to appraise. What can we really spend public money on. Mrs. Yerger said she can't believe we're the first Township that has incurred this problem. She's sure this has happened elsewhere, so let's find out how other people have gotten through this situation.

III. NEW BUSINESS

1. ACT 4 REQUIREMENT

Mrs. Yerger said she had a very nice discussion with Cathy Gorman, our Finance Director. Apparently, what she's trying to tell us is that Northampton County, when they decided to pass an act that we agreed with, the Act 4, the millage on properties that have been preserved, you need three entities to do that in order for your Township to partake of this program. It has to be enacted by the County, the school district and the Township where those buildings reside. All three entities within the Saucon Valley area did that; however, the County kind of goofed. She doesn't think they froze the millage, but they took the entire tract of a property that was put under conservation easements and put it down in value as per the easement agreement. It devalued the land and took the development rights out, but they also included the houses that were already there and existing. If they had a \$500,000 home, that wasn't supposed to happen. She's letting us know that the County is fixing this. Ms. Ray said she didn't notice any change on her tax bill. They devalued the whole property. Mrs. Yerger said apparently, they did on a couple of them. She said apparently not only did they freeze the millage on some of these properties, they also carte blanche took the entire tract and reduced it to its raw land value including the houses. This was a heads up that these are the properties that are preserved. She really wanted us to know that's not the way it should be done. This is just an FYI and there is no action needed. She just wanted to make sure we all understood that's not the real way it's supposed to work. Mr. Beardsley said he has a question about the real way it's supposed to work as he's not sure if he understands it and it would be good too. He thought that they would freeze the millage, but he did not know they would reduce the assessed value of your property because in other states he knows they do that. In NJ, for instance, if you sell a conservation easement on your land, and sold the development rights, they can't tax you, so you get a tax break that way. Mrs. Yerger said you do in PA, you get both as long as you are within one of those jurisdictions that has approved it and Lower Saucon is one of the few that have approved it. Most of the school districts have balked at it. The County did it by the whole tract and if there was a house on that tract, the whole tract went down. Just to let you know, the only ones we have had those issues with are the four at the top of the paper she has. It was the Coal Yard Road property. That's the only one being affected by that. Mr. Johnson said they aren't supposed to devalue the assessed property anyway, just freeze the millage. Mrs. Yerger said they do that if they are petitioned. The landowner went to them and said he put a conservation easement on this property and it's now not worth the same as it was before. The County can do that and take it at a current value without the development rights on it. However, they made the mistake by extending that to include the houses because they were on the same tract which they should have not done.

Mr. Johnson said he has four acres of land that his house is not on, and they don't evaluate that much, so there wouldn't be much to cut out anyway. Mrs. Yerger said it depends on where you are. Land on the other part of the Township is worth more money. That's what this Act 4 is, it's an FYI, and they are fixing the situation. Cathy just wanted to make us aware of it. They were taking the entire tract, so that's what they had to straighten out.

2. REQUEST FROM THE COMPASSIONATE FRIENDS TO RELEASE BALLOONS

Mrs. Yerger said there's a group that's renting the park at Town Hall called The Compassionate Friends. They'd like to do an event here. Mr. Hijazi said how many balloons? Mrs. Yerger said she didn't know. The Township was concerned because at some places you can't release balloons. You can't release them within so many miles of an airport also. What goes up is going to come down. There was concern this would be an issue, they are going to deflate, and be all over the road. They are going to be eaten by wildlife. It is what it is. Mr. Maxfield said there's a statement that they are environmentally safe.

Ms. Ray said she looked up on line about environmentally safe balloons. Supposedly, there are some different latex ones that they make that biodegrade in the sun in a couple of days. Whether this is that special kind of balloon, she doesn't know. Most of the balloons don't lie around forever. Mrs. Yerger said ducks swallow them. Ms. Ray said it said it would disintegrate.

Mr. Hijazi said his concern would be the number of balloons. If we're talking four or five balloons, it's not going to be a big deal, but if we're talking 400 to 500 balloons, then that might be a problem. Mr. Kaye said we can allow them to release one representative balloon.

Mrs. Yerger said they want to do this on September 11. Mr. Johnson said that's enough time for us to ask them for more information. Are the balloons actually biodegradable? Mr. Beardsley said we have to ask them where they get the balloons. We need information about the balloon, like a product sheet. Mrs. Yerger said we also need to know how many balloons they are releasing.

Mr. Johnson said we need to tell them why we need to know this information. If the balloons are released and they are environmentally safe, why are they environmentally safe? The reason we are asking is there is a chance they could kill animals, which is what we're concerned about. Mr. Beardsley said have they considered other things? He just read something that a local banquet hall released doves. Mrs. Yerger said how about butterflies? Butterflies would be a good recommendation for September and it would not be too late. She has a friend who sells them for occasions like this. Mr. Beardsley said in the letter we should say have they considered any alternatives such as.... Mrs. Yerger said our recommendations would be:

1. We want a product specification sheet on the balloons and what makes them environmentally sensitive
2. We prefer they consider using something more environmentally sensitive like butterflies or doves
3. Ask them how many balloons they plan on releasing

MOTION BY: Mr. Beardsley moved for a recommendation regarding the release of balloons by The Compassionate Friends – the EAC would like a product specification sheet on the balloons and what makes them environmentally safe. The EAC would prefer the group considers using something more environmentally sensitive like butterflies or doves, and ask them how many balloons they are planning to release.

SECOND BY: Mr. Maxfield

ROLL CALL: 6-0

IV. DEVELOPER ITEMS

A. 2202 WASSERGASS ROAD LAND DEVELOPMENT #LD 05-05 & SITE PLAN #SP 02-05 (REVIEW FOR SPECIAL EXCEPTION #SE-02-08)

Mr. Kochanski said this is the same plan. Mr. Johnson said did Boucher & James come out with their recommendations? Mr. Kochanski said they issued their review letter last week as well as

Hanover Engineering did also. Not much has changed. The one thing that did change, which was kind of unexpected was, if you remember, the old school building is being converted into office space. They are proposing to use existing parking asphalt areas for the parking. They need several variances regarding the number of parking spaces. They are looking for information on the specific uses. They provide some general uses, but did not provide them with any specifics as far as who would the specific users be? What use would then be coming into this building? There were several variances they were requesting. One was a special exception to permit the existing non-conforming use which was the school use be changed to another non-conforming use and that is a use that would not be permitted within the current underlying zoning district of R40. They also are requesting a variance to permit uses that would not be normally permitted within the zoning district, such as office, medical office, legal, within a residential district. They are requesting a variance on providing buffer yards against adjacent land uses. The final variance is regarding off-street parking, 339 spaces will be required based off of the square footage of the building and they are proposing 120. The big thing that came up that was discussed at Planning Commission was there was on the previous set of plans, they had a package treatment plant that they were of the understanding it was kind of going to be pre-treatment for the uses which would then treat the water, treat the effluent, then into the existing drain field. That was removed from the plans. It is going straight to the drain field. At the Planning Commission, it was a little bit of a surprise. The Engineer, who was on this project, we brought it to her attention. He thought it was a way of alleviating the issue of putting chemicals down the drain so it wouldn't go right out into your carbonate geology area, and then your watershed protection area. We thought that may have been intentional. Since it's been removed, it's his guess that it's a carryover from the Short Stay Suites and it was required because of the number of residential units that were proposed. That's a question they are going to be discussing with the applicant. Other than that, there are a few cleanup items that were discussed. Other substantial issues have not really been addressed. Their rationale is they are purely looking at it from the special exception standpoint. If they can get the use before all the necessary work of meeting all the ordinance requirements, so they are kind of deferring everything at this time so they know they have the use. Once they have gotten the use, the Engineer has indicated to him they would then go through and meet all the other calculations and environmental standards and things like that. There's very limited development associated with their proposal. There's a proposed driveway connecting to the upper and lower entrances. They are doing some modifications down at the south end of the site. They weren't proposing to provide any additional parking or any construction for parking. There's a slight net decrease in the impervious coverage overall for the site. Mrs. Yerger said was it discussed about having the pre-treatment plant anyway? If they are estimating the need for 300 parking spaces, there will be 300 people to be occupying the building at one time or other. Mr. Kochanski said he thinks the idea of a package pre-treatment plant was a good idea which is why they brought it up in discussion as far as chemicals being dumped down the drain. They asked what is the function of this pre-treatment plant, what kind of filters are in there, so they could see what kind of uses would be appropriate for the site. With the undefined use of what the uses would be, the pre-treatment plant would be something that would be a benefit. The use that you saw this last time is the same use as you see now. They just made some minor tweaks to the plan, but this has not changed from the March plan you saw before.

Mr. Maxfield said there was some mention at the meeting from Craig Kologie about the proposed use for the pre-treatment and it seemed to be simply like typical septic uses. We asked if it could be modified to filter out pharmaceuticals or whatever. They said probably not, so we weren't sure what the function of this thing was for. We asked for a definition of medical uses. What exactly do you mean by medical uses? Mr. Kochanski said that's been an ongoing issue with this application as we are looking for them to tell us what uses. There was a reply back which danced around the information as to what we were looking for. Ms. Ray said why didn't they just say it was hard for them to give you the uses as it's not being leased out yet. Mr. Kochanski said they weren't looking for a specific user. They said light assembly, computer technology. That use is not regulated in the zoning ordinance, so we needed to get their exact definition of what that would

entail so there would be some exceptions of the type of user that would be coming in under that use. We were looking for specific definitions as to what computer technology meant to them so that there was a clear understanding on the Township's part as to who could ultimately be in there. Is it someone who is just doing some light assembly, or did someone go through a lot of processes that would involved noxious chemicals' creating computer components. The other issue on the parking, the reason for the variance is the ordinance required based on the gross footage area of the building. There are hallways. There are mechanical rooms. There's a lot of thing they are trying to fit in. There was an architect, but they based their number off of the square footage they were going to use. They chose not to get a variance on impervious, just on parking. Any additional parking would require a variance. The impervious is an existing, non-conforming condition. Mrs. Yerger said the pre-treatment plant, where should we go with it, if we go anywhere with it? Mr. Hijazi said his opinion is if it's not needed, we can't really force them to do it. We can raise concerns about the use, which we have, but if they come back and say the property will be leased to accountants, engineers and consultants, what concern would we have about chemicals. Mrs. Yerger said the pre-treatment would strictly be for chemicals? Her concern is its in the carbonate geology and watershed area. Her question, would this be advisable regardless of the use just for straight sewerage. They have a neighborhood around them. Mr. Hijazi said he suspects when it was proposed in the previous plans, it must have been required. Mr. Kochanski said he thinks it was proposed as part of the old proposed use of the Short Stay Suites, which was your dealing with the hotel type of situations. It may have just been an accident that it was left on. They kind of got excited with the idea that they were thinking it was for this use, and trying to pre-treat and not just dump it into the existing system. Then once they brought that up, it disappeared from the plans. Mr. Maxfield said it may have been left over from the initial proposal which was to run sewer up there from Hellertown. When they say medical usage, we don't know if it's going to be lab work or whatever. Ms. Ray said there are regulations what they can put down the drain. Mr. Kaye said they are allowed to put formaldehyde and you have a practice where you are sterilizing instruments, you can put the sterilizing liquid down the drain. It's a place for during chemo treatments, which could be going down the drain. Mr. Maxfield said if we don't have controls, we wouldn't know what was going down the drains. Tenants can come and go and we're not going to be there checking every time a tenant comes in. The Planning Commission's feeling was specifying tightly what was allowed in there and what wasn't allowed in there. Mr. Kochanski said clear expectations as to what was happening on site so everyone knew what was going on. Mr. Hijazi said did they get back to us at all with the list of questions we had? Mr. Kochanski said he doesn't think it made its way to the applicant as it didn't go to Council yet. If your recommendations are going to Council, and this project hasn't come to Council, then it's not at the point it can be distributed to the applicant. Mr. Maxfield said we are at the same level as fire recommendations. Those go to Council unattached to whatever. He thinks that list of questions should go out to the applicant as soon as possible. We should not wait until it comes before Council. Mr. Kochanski said the applicant is coming to Planning Commission on Thursday. Mrs. Yerger said can we make sure this goes to the Planning Commission? Mr. Maxfield said we have to get the okay from Council to send it. Mrs. Yerger said the Planning Commission is meeting this Thursday and Council meeting isn't until next Wednesday. Mr. Hijazi said they are on the Planning Commission, so they can ask these questions. Mr. Kochanski handed out Boucher & James letter of April 8 to the EAC members. Mr. Maxfield said maybe we also want to address the issue of what does that pre-treatment treat because if it's not handling any of the chemistry Mr. Kaye was talking about, maybe we need to know that right up front. If it's only going to hold typical septic, maybe we don't need it. Mr. Johnson said they want to reuse the drain field that was previously used, is it up to our SEO to decide whether that drain field is reusable? Mr. Maxfield said it's up to DEP. They've already gotten the okay from DEP. They had to examine it. The drain field hasn't been used for years and years, so it's dried out and who knows how long it's going to take to saturate again. Their statement was that it was sized for about 500 kids. They are not getting anywhere that usage now, so it might be okay.

Mr. Kochanski said Mr. Maxfield is correct as far as the capacity, as from a proposed use, is less than what is was under the school use. The SEO was looking at that. Mr. Maxfield said DEP gave their recommendation already and it's kind of hard for the SEO to go against DEP. Mr. Kochanski said the Project Engineer provided for the office use it would be 5.33 EDU's per day, and for the previous school it was 12 EDU's.

Mrs. Yerger said we have a list of the prior recommendations, are we satisfied with it? Should we make sure the recommendations are passed on again. Mr. Maxfield said let's make sure we get some more information which is the Engineer's job.

MOTION BY: Mr. Johnson moved that the recommendations made by the EAC, dated March 11, 2010, should be addressed by the applicant and that Township Council forward these recommendations to the Township Planning Commission and to the applicant.

SECOND BY: Mr. Maxfield

ROLL CALL: 6-0

B. METRO PENNSYLVANIA PCS SITE PLAN #SP-01-10 & CONDITIONAL USE #CU 01-10 - 4105 SHERRY HILL ROAD

Mrs. Yerger said we have some information here on a conditional use and site plan for Metro PCS. Basically, it's a co-location of an existing tower. Mr. Kochanski said this site is located in the north end of the Township, on Sherry Hill Road. The current configuration of the site is very wooded and steep slopes. There are two existing towers on the property that hold multiple cellular antennas. This proposal is to locate another cellular antenna on one of the towers and utilize existing equipment pads that were previously used or never used, so there's no disturbance proposed as part of this project. It's existing impervious surfaces and everything will go on the existing tower. They are co-locating which means they are not putting up another tower. Mrs. Yerger said that's good as they are already using what exists. She doesn't see any problem with it. She'd actually encourage it.

V. OLD/MISCELLANEOUS BUSINESS

A. RECOMMENDATIONS ON WIND SYSTEMS AND SOLAR ENERGY REQUIREMENTS

Tabled until next month.

B. REVIEW OF EAC BY-LAWS

Mrs. Yerger said she would like to get these by-laws passed tonight. She ran some questions by the attorney. Attorney Treadwell reviewed not only our by-laws, but the EAC Handbook Enabling Ordinance, the Act, and he also reviewed our Township Ordinance Enabling Act. He wanted to make sure everything was compatible. The recommendation from our legal counsel is that we change the non-voting member description or name to associate, so they would be EAC Associates. Wherever it says "non-voting" change that to "associate(s)". Voting members is fine. He also said we can change the number of associates if we want to. If we want to start using it as a pool or when we need to fill a voting member position, that would be fine. Mr. Johnson said the only thing the original law said was seven people, all of whom have voting rights. The people who wrote the Handbook encouraged us to have additional members and we decided it would be best to call them associate members and we can have as many as we want. Some place in there, it seems that Council can put a limit on the number of associate members we have, is that true? Mr. Maxfield said Council can determine the entire make-up of the EAC. Some Township's, it's not seven members, but three to seven members. Springfield only has a three member board. Council severely determines what an EAC can do.

Mrs. Yerger said Mr. Johnson had a question about the floor. She asked Attorney Treadwell what constitutes the "floor". It is his opinion and legal interpretation that "floor" means the EAC. Mr. Johnson said the seven voting members? When we talk about the EAC, we talk about the people

with the voting rights and the associate members who don't have the voting rights. We have to differentiate what we're talking about. Mr. Maxfield said there is contradiction in the by-laws also about that as there is one place at the end of the by-laws that it talks about the public, and the public being the floor. The other times it talks about the members. Mrs. Yerger said Attorney Treadwell was of the opinion that "Nominations from the floor refers to the members of the organization who would usually stand to nominate someone to a certain position, in contrast to nomination by written petition or document. The term and procedure does not allow for nominations from anyone else present in the room". She's assuming if he's saying members, he's talking about the voting members. Mr. Johnson said yes, as far as he's concerned, the only members of the EAC are the seven voting members, which is what the law says.

Mrs. Yerger said we will go through the by-laws now. Mr. Maxfield said Article IV – change it to seven residents because it says later on they shall reside within the borders of Lower Saucon. It shall say, "the EAC shall be comprised of seven residents which shall be voting members and four residents which shall be associates." They are all residents, but seven are members which vote and four are associates. Mrs. Yerger said we had some interest from other people to be associates and come to the meeting to discuss things. Do we want to boost the number from four to five associates? Mr. Beardsley said anyone can come to the meetings and make comments. Mrs. Yerger said she would like to add one more, so it would be seven and five. Mr. Maxfield said he thought that was a good number too. Mr. Hijazi said that's fine, but the bigger the group, then the discussions go longer. Mrs. Yerger said she doesn't want to get any bigger than twelve. Mr. Maxfield said we are really getting some good applicants and the people here are experienced.

Mr. Maxfield said one change in Section II, the attendance of members, second line, "EAC Member or Associate". Next paragraph, it should read "Members or Associates" attendance record. Throughout the document, wherever it says non-voting, it should be changed to associate.

Mr. Maxfield said Article VI, shall be three years and terms of associates shall be one year. That was a proposal from Attorney Treadwell that if we're moving up members, for instance, we have a vacancy, a person from the outside shouldn't be moved into a voting position if you have associate members who have been sitting here for years who could move into that. What we could do was assume if we were getting a new member, that member would fill an associate spot and one of the associates would fill the member spot, if we were to lose a voting member. Ms. Ray said how would we determine who that associate would be? Mr. Maxfield said we'd take recommendations and a consensus. Mrs. Yerger said once we get through this, we need to do this. Mr. Johnson said suppose a voting member resigned in the middle of his term? Mr. Maxfield said that's why it would be much easier for a one year person to move into a voting member position. Mr. Johnson said an associate member could resign and have an understanding that he could apply for the voting position and get it. Mr. Maxfield said that would be another way to do it, but if you were going to open up a voting position, you could get anyone from the public, so an associate could resign and not be reappointed for that position. It's got to be an open process that allows the public to enter into the boards. Mr. Johnson said he didn't think anyone coming in from the outside should go right into a voting position. If an associate person resigned that would open up an associate spot and they could apply for the voting member spot and get it. How do you guarantee that they would get it as it's up to the Manager? Mr. Maxfield said any time someone is applying for a decision, you are not going to take applications just from the board members. Mr. Johnson said why should we take applications from people from the outside for a voting position if we all agree they should fill it. Mr. Maxfield said we're not. We are taking an application for a position on the board. That's all it is. Mr. Johnson said that's the conflict. Mr. Beardsley said what Mr. Johnson is saying, and he doesn't agree, is the only people that can become a voting member had to have been an associate member. He doesn't think you can do that. The law doesn't allow you do to that. You can't mandate it, but the EAC would like the ability to do it. Mr. Johnson said can't you said it's the policy? Mr. Maxfield said it's not a policy as much as it's a system. Mr. Hijazi said isn't the selection of the person whether to be a member or associate done through application or Manager

reviews and make the recommendation to Council. Mrs. Yerger said it's not just the Manager. He does take into consideration the EAC's input as well. Mr. Maxfield said the discussion at Council the other night was the Manager wanted our input so he can make the recommendation to Council for approval. Mr. Hijazi said the position of a voting member on the EAC should be open to anyone, whether they are associate or a new member coming straight in; however, when we get a member from the public that is coming for the first time and you have an associate who has been here for six years, and both of them put in an application to become a voting member, a good or most likely judgment at that time would be that the person who has been an associate member has the knowledge and experience and therefore, the recommendation would be to select that person. It doesn't necessarily have to be in the rule that only a voting member can be coming from the associate position. Mr. Maxfield said every time we move people in here, it's been a consensus and we all talked about it and we all agreed that it was a good thing to do.

Mr. Johnson said he wonders if we could take the attitude that Mr. Cahalan's responsibility for appointing a member to the EAC only covers those seven members who are voting members. The associate members can be recommended to Council that we want so and so to be on the EAC, and then they can decide whether or not they want it. Mr. Maxfield said even though the statute doesn't say anything about associates, he thinks in the books from the State, per protocol, the Manager will recommend all appointments to the board. Technically, if the Council does say the Manager recommends you be appointed to the board and the Council does not agree with your appointment, he is supposed to go back and get another recommendation and bring it back before Council. There's a whole protocol set up. Even in the by-laws, this particular line was copied from the state books, it says "vacancies on the EAC shall be filled immediately by regular appointment procedure, appointment by Township Manager subsequent to approval by Township Council. Reappointment of members shall also follow the above procedure". Mr. Johnson said as far as the state is concerned, the only members on the EAC are the voting members. They don't even consider associate members. All of that refers to the seven voting members and that would solve a lot of our problems. Mr. Maxfield said you are not going to get the rest of Council to agree to that because all boards, all members of all boards, are approved. Mr. Johnson said Council would still have the capability of approving the people that the EAC recommends come on board as associate members. Mr. Maxfield said he doesn't think we have a conflict as all the EAC would have to do is state their preferences to Mr. Cahalan who would then relay that to Council. Mr. Beardsley said it hasn't been a problem. Mr. Johnson said it's a problem as right now we have a spot for a voting member. Now, there's a very prominent guy who wants to join the EAC and should we move him right into the voting spot without any previous experience on the board, or should we move somebody from here up to that position and have him fill an associate spot. Mr. Maxfield said hold that argument, as when we get done with this, that's exactly what we're going to talk about, that exact circumstance. What this says is it allows us the freedom to make that recommendation to Mr. Cahalan or not make the recommendation. Mr. Johnson said the way he understands it, is Mr. Cahalan decides what to do. Mrs. Yerger said we are allowed to recommend. It doesn't mean he's going to take that advice. We can tell him a recommendation, but again, it's ultimately up to him to take those people who have applied and make the final recommendation. Mr. Hijazi said when someone applies to EAC, do we see it, do we know it? Mrs. Yerger said Mr. Johnson was at the Council meeting when it was discussed. Mr. Hijazi said the EAC didn't know who was applying. Mr. Maxfield said maybe that's something we need to do in the future. They knew who the applicants were, as Chairman and Vice-Chairman, not as Council members. They didn't know who the recommendation would be for. Mr. Johnson said why don't we ask Council if they would go along with the letter of the law that states that as far as the law is concerned, the members of the EAC are the seven voting members and anything outside of that, we can do whatever the Council or the EAC wants. Mrs. Yerger said we still have our by-laws. Mr. Johnson said first of all we have to get Council to go along with that idea. What you are talking about is Council approves all members the same. Mr. Maxfield said all appointments to the board. We are a board at the Township. Mrs. Yerger said what's the objective, the argument? He wants the EAC to determine the associate members, right? Mr. Johnson said that's right, without having to go to

Council. That doesn't eliminate Mr. Cahalan's ability to assign somebody to a voting member coming in from the outside. Mr. Maxfield said what if our recommendation was someone and Mr. Cahalan wanted someone different? Mr. Johnson said Council would have that argument with Mr. Cahalan, not with us. Mr. Maxfield said we wouldn't be arguing at a Council meeting for or against the EAC. The EAC has certain abilities granted by the by-laws, the statute and the guide books. We can only operate within those parameters and we really have it good. A lot of EAC's don't get to do anything. This at least, Mr. Cahalan is gracious enough to ask us for our input on who we think should be moved into the spot and that is all we're doing, making a recommendation to Mr. Cahalan. If we start going for control, who is on and who is off, we are violating our own policy. This is how the Township has worked with every other board. Mr. Johnson said did Mr. Cahalan ask you if there was someone on the EAC who was a nonvoting member who you would like to move up to the voting position? Mr. Maxfield said yes. Mr. Johnson said at the last Council member it wasn't brought up. Mrs. Yerger said let's get through the by-laws and we will get to this individual situation. If it does work, fine.

Mr. Maxfield said Article VI, fourth line, terms of members shall be staggered so that approximately 1/3 of members terms shall expire each year. That's from the State and we have to do that. The initial terms should be seven members. We already have our staggering set up, so we don't need to have that whole next section. Ms. Ray said it wouldn't hurt to keep it in and leave it in. Mrs. Yerger said that's fine, we can leave it in. Mr. Maxfield said Section 2, nominations of voting members shall be made from "the floor", and Mr. Kochanski found this one, on Section 3, the matter before the EAC shall be presented in summary by some person designated by the Chairman and parties in interest shall have privilege in the floor. The floor means you get up from the audience and talk. To not confuse the terms, it would be simple to just say "nominations of voting members shall be made by the EAC members and associates at the annual organization meeting and election. Then it's really clear who does it. The third line, nominations by chairman shall be made "by members and associates".

Mr. Maxfield said we appoint a Chairman, and they immediately become interim chairman in January. We also appoint a Vice Chairman and a Secretary which are permanent positions; however, the Chairman's appointment must then go to the next Council meeting and approved by Council. If it's not approved by Council, or if they decide they don't want that Chairman, we have to go back and elect someone else. We never did have a problem with that.

Mr. Maxfield said Article VII, at the top of the third page, third line, "given to EAC members and associates and township staff". That covers everyone.

Mr. Maxfield said Section 7, second line, "attendees being both members and associates, Township staff or other Township officials".

Mr. Maxfield said Article VIII, Section 2, a motion by the members must be made and passed in order to dispense with any item on the agenda. We have had comments about associates making motions and according to what we've been told, that cannot happen anymore. The motion must be made by a voting member and the voting must be made by the voting members only. Mr. Kochanski said the motion would be made from the voting member, but the second is not discussed in here. Mrs. Yerger said you can add it; a motion must be made and seconded by a voting member.

Mr. Beardsley said should we do the order of the meeting? Report of officers and committees, we have to move that up. Mrs. Yerger said we should. We can change these by-laws. We have people here, so let's not make them sit for a couple of hours. Let's move g to c and move everything else down. Put public comment before adjournment. Take note there on the last page, where it has shall have the privilege of the floor, keep it there and get rid of "floor" at other places.

**Environmental Advisory Council
April 13, 2010**

MOTION BY: Mrs. Yerger moved to approve the revised by-laws we went over tonight, and send on to Council for their April 21, 2010 meeting.
SECOND BY: Ms. Ray
ROLL CALL: 6-0

Mrs. Yerger said we have had a vacant position for awhile in a voting position. We've had some applications come into the Township. Mr. Cahalan has asked us to find out if any of our non-voting members would be interested in this position or if one of our voting members wants to nominate one of our members to fill that slot. Mr. Hijazi said do we know who are the applicants. Mrs. Yerger said Mr. Cahalan is asking if anyone wants to fill this position and then he will take it from there. We're staying in with the parameters.

Mr. Johnson said he would like to nominate Tom McCormick as he's done a lot of work for the EAC on the Open Space Committee and he's been very active. Of course, he hasn't been attending as many meetings as we'd like him to, so that's a problem there. Mrs. Yerger said she was wondering if Colin Guerra would like to fill the position. You have to be here, and he's the next candidate. Tom McCormick has some trouble making the meetings sometime. She has sent him an email and has not heard back. We need to fill this position now. Mr. Guerra said he would be willing to be a voting member. He said he will send an email to Mr. Cahalan stating he would be interested in filling the voting position. Mrs. Yerger said Mr. Cahalan will take from the next pool and recommend associate members. Mr. Maxfield said we had numerous applicants for the board position and that's the reason we were thinking of raising the number of associate members. If everyone is in agreement, we could recommend the applicants be brought in as associates and then move Mr. Guerra. Mrs. Yerger said how do we want to do this? Do we want to say we nominate two or let Mr. Cahalan decide? Mr. Johnson said he'd like Mr. McCormick, but like you said, he's not here at all the meetings, so maybe Mr. Guerra would be a better choice.

MOTION BY: Mrs. Yerger moved that the EAC should recommend to Mr. Cahalan that Colin Guerra fill the voting position on the EAC.
SECOND BY: Ms. Ray
ROLL CALL: 6-0

C. REVIEW AND APPROVAL OF FEBRUARY 16, 2010 MINUTES & MARCH 9, 2010 MINUTES

February 16, 2010 Minutes:

Mr. Johnson said page 5 of 9, line 19, in front of "He knew" add "Mr. McCormick said that he knew". Page 8 of 9, line 19, the word "nominations" should be taken out and "corrections" should be inserted.

MOTION BY: Mr. Beardsley moved for approval of the February 16, 2010 minutes, with corrections.
SECOND BY: Mr. Maxfield
ROLL CALL: 6-0

March 9, 2010 Minutes:

Mr. Johnson said page 5 of 10, line 17, change "plan" to "plant". Page 7 of 10, line 42, take the "9" out of "property". Page 9 of 10, line 10, change "timbering" to timber". Same page, line 12 and 20, "civil cultural" should be changed to "silvicultural". Page 9 of 10, line 33, should read "for management objectives, and those are usually just left in place where".

**Environmental Advisory Council
April 13, 2010**

MOTION BY: Mr. Johnson moved for approval of the March 9, 2010 minutes, with corrections.
SECOND BY: Mrs. Yerger
ROLL CALL: 6-0

D. REVIEW OF DRAFT LANDOWNER ACQUISITION LETTER – MR. MCCORMICK

Mrs. Yerger said Mr. McCormick is not here this evening, so we will table this until next meeting.

VI. UPDATES/REPORTS

A. COMMUNITY GARDEN @ FLINT HILL FARM

Mr. Boos said there is no update.

B. NATURAL RESOURCE WEBSITE

Mr. Johnson said he sent an email to everyone. He wanted to point that out to the members of the EAC that this website does exist and you can go there and learn how to use it. He found one of the really neat things about is wherever you put your pointer on the map, it gives you longitude and latitude of that point. Mr. Hijazi said google earth also does that. Mr. Johnson said he thought one of the things we wanted to do as far as the EAC goes identify different locations in the Township where natural resources exist, and then somehow put those natural resources in a database or on a map so that we could accumulate a database of all these natural resources. It could be an example of something that could be done. Mrs. Yerger said when you are walking properties, notify someone of it and put it in the system.

C. APPROVAL OF RECYCLING EVENT FLYER – APRIL 24 FROM 9 AM TO NOON

Mrs. Yerger said we need some volunteers if you can stop by for an hour or two. The flyer is okay to put on the website.

VII. MR. BOOS – HELLERTOWN REPRESENTATIVE – REPORT

No report

VIII. NON-AGENDA ITEMS

- Mr. Maxfield said at the Da Vinci Center there is a big windmill. It's very impressive. Mr. Boos said there was also a windmill right by Route 22 by Fogelsville which was going around very fast.
- Ms. Ray had some brochures she passed around about the PA Hiking Club Recreation map.
- Mrs. Yerger said there will be a volunteer recognition picnic on June 14. Please let Diane know if you will be able to attend.
- Mrs. Yerger said there will be a program in the Quakertown Swamp off of Route 313. It will be a visit to the Blue Heron Rookery. It is free to the public. It's from 9 AM to 11 AM on Saturday, April 17th. Mr. Beardsley said there's a website where there's a camera next to an eagle nest in New Jersey. If anyone is interested, email him and he'll send you the link.

IX. ADJOURNMENT

MOTION BY: Mr. Maxfield moved for adjournment. The time was 9:38 PM.
SECOND BY: Mr. Beardsley
ROLL CALL: 6-0

Sandra Yerger, Chairman

Next EAC Meeting: Tuesday, May 11, 2010