

I. OPENING

CALL TO ORDER: The Environmental Advisory Council meeting of Lower Saucon Township Council was called to order on Tuesday, August 10, 2010 at 7:01 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Sandra Yerger, Chairman, presiding.

ROLL CALL:

Members: Chairman, Sandra Yerger; Vice Chairman, Tom Maxfield; Ted Beardsley, Allan Johnson. Absent: Hazem Hijazi, Colin Guerra and Laura Ray.

Associate Members: Chiharu Tokura, Karen Dancho and Tom McCormick. Absent: Glenn Kaye and Dru Germanoski

Planner: Kevin Kochanski – Boucher & James – Absent

Hellertown Liaison: Terry Boos

Jr. EAC Member: Vacant

PLEDGE OF ALLEGIANCE

II. OPEN SPACE SUB-COMMITTEE

A. PROPERTY UPDATES

1. **Charles Martin** – Mr. Beardsley said they went to see Mr. Martin's property. They are recommending it for consideration. He met with Charlie Martin and Chris Garges. They went over the map. Mr. Martin finally said just appraise it the way it is. He would have access to the back property by giving up some of the front lot and Mr. Garges said he could get five or six houses or lots in there. Mr. Beardsley asked Mr. Martin to wait until we had met with Mr. Clemons regarding the appraisal process before we started a new appraisal. Mrs. Yerger said you are moving along, you had the meeting with Chris and Mr. Martin now has a better understanding. Mr. Beardsley said Mr. Martin had a friend at the property inspection and she has an adjoining property. She wanted to know how the system worked and how the procedures are as she's interested in doing an adjoining piece and putting in a conservation easement. She has a farm with thirty (30) acres.

III. NEW BUSINESS

A. DISCUSSION WITH TERRY CLEMONS REGARDING HIS LETTER ON CONSERVATION EASEMENT APPRAISALS

Mr. Clemons said he's an attorney and has been practicing law for awhile. He's a Solicitor in a lot of different Townships. One of the things he's really focusing on has been open space preservation and conservation easements. He wrote a letter in May going back to a specific issue you had with regards to having your Zoning Officer do a yield analysis, which you say assists the appraiser in arriving with a fair market value for conservation easements. You probably know that what appraisers do in arriving at a value for conservation easements and this is to look at the developability. They want to know if this were developed, how much would it be worth, and if you, in essence, are buying the development rights, what's it worth after you retire the property. You are generally going to find, regardless of what appraiser you use, that's how they do it. He asked if the Township used one or several appraisers? Mr. Maxfield said they use Indian Valley. Mr. Clemons said he always tells folks that in his experience, appraisals are an art more than a science. He has used Indian Valley for a couple of occasions, and he thinks they are coming in at the high end. They are recognizing with the economy what subdivision and land development regulations are. When you are sending them information, you are really sending them a rough rule

of thumb. When your Zoning Officer does a yield plan, he is looking at what the natural resources are on the property. He thinks you know these appraisers are looking at what the developability of the property is. They do it based upon a general kind of available information. What does the zoning ordinance permit. They may look at soils; if it's an area outside of the sewer district; perk sites; are there natural resources in the property that would impair development, but they don't have the kind of engineering analysis that you see when these folks bring in a subdivision plan because they are paid \$10,000 or \$20,000 to have somebody map the natural resources and have somebody do steep slopes at 2' intervals; to have somebody do soils testing to see whether the soils in fact reflect what shows on your soils map. It really doesn't equate to have either the Zoning Officer or the appraiser looking at things to try to decide what kind of yield you are going to get. The Zoning Officer is making probably a better educated guess than he would or the appraiser, but he's making an educated guess based upon what's available. It's a good practice to avoid run away appraisals; however, you may find is that where you have a property that has a lot of natural resource restrictions, and you apply this kind of rule of thumb, you end up with an appraisal that says there is no development; therefore there is no value in a conservation easement. That can really cause a problem when you have a property that is important for preservation because of its natural resources. You could have the head waters of Cooks Creek that we have a lot of concern with in Springfield Township, which is an exceptional value stream, or the Saucon Creek. You could have it being part of the highlands which is something you may see value in preserving but has steep slopes and woodlands and we have woodlands restrictions so that coming back and saying this property has no conservation value because we don't really see that it's going to be developed has negative impacts on your ability to get a conservation easement. As he said in his letter, that can be really unfortunate because you may have a board right now that is pretty tight fisted concerning development regulations and you might have a board ten years from now or twenty years from now, saying we want to encourage development, so we're not going to require as much woodlands; we aren't going to require riparian buffers; require some of these restrictions. The beauty of these conservation easements is that they are in perpetuity. You really want to take that kind of long view in encouraging people to preserve their property. Now we get back to why you invited me here and that's the question of what to do? He just had a recent encounter with a program he hadn't been aware of which is the NRCS (Natural Resources Conservation Service) which has a wetlands preservation program. It's a federal program and to his surprise, they are using federal funds. You are using Township funds and subject to the Second Class Township Code as it relates to appraisals. This program is administered by the State through the NRCS. They say we have looked in Bucks County. We have looked at all the counties in Pennsylvania. We've done a market analysis. What we find is that in expensive Bucks County, our market analysis is, as a general rule, land has a value of \$12,000.00 an acre. If you want to go on their website, put in wetland reserve program, you are going to see a grid that has one of these acronyms where they have determined what these per acre values are in Pennsylvania and there's probably one for the nation as it's a national program. In anticipation to coming here, he talked to someone in Harrisburg whose name is Hawthorne Jones. He asked how did you determine the \$12,000.00 per acre and how do you get away without doing appraisals. She said there was this market analysis that was done and their legal counsel accepted it and the federal program accepted that this area will pay \$12,000.00 an acre. They don't pay \$12,000.00 an acre for a conservation easement on an entire property. The property he was concerned about was 60 acres. There was 23 acres of significant wetlands, bog turtle and some riparian things, so they were willing to pay \$12,000.00 an acre, but they were only going to buy the conservation easement on the resource that they wanted. Mr. Johnson said did they determine wetlands by the hydro soil? Mr. Clemons said he doesn't know the answer to that. They had someone who went out and mapped it and came up with the wetlands. He's really talking about it more in terms of saying there are different ways that people come up with value.

Mr. McCormick said \$12,000.00 an acre is the value of the land, is \$12,000.00 an acre the value of the development rights? Mr. Clemons said conservation easement. They will pay for a conservation easement \$12,000.00 an acre of significant wetlands in Bucks County. There's one

for Northampton; there's one for Berks. This is a targeted program. They want to protect significant wetlands areas and they have a whole set of criteria. Does it have bog turtles? Is it a riparian corridor to a cold water fishery and that sort of thing. When he first looked at it, he thought maybe we can piggyback. When we want to buy a dump truck in Milford, we can go out on a state program and they have bid dump trucks and you can buy without going through a bidding process based on the bid they got for a dump truck. He doesn't think that is going to be transferrable here because the Second Class Township Code says that when you are buying an interesting real estate, you can only pay the appraised value established by an appraiser and we think that means a general certified appraiser – an appraiser who can appraise open land. The reason he was interested, he wanted to see what they did. They did a market analysis. That's not an appraisal performed by a general certified appraiser and he's afraid that what we're required to do in Second Class Township is to do an appraisal of that individual property, not a market analysis to say generally in this area, people are paying this amount. It is interesting to see that different folks are trying to approach this problem in a different way. He went to a PA Land Trust Alliance Conference in the spring and one of the topics was what do you do in these rural areas where you have important natural resources and no one came up with an answer. You didn't have him come here to say there are no answers and he's got a couple of ideas that he wants to kick around with you in the context of these properties. On one hand you want to guard against run away appraisals so you don't just want Indian Valley to just say what do you think this is worth; and on the other hand, you do not want to turn away properties that have a lot of value to preserve and which could well be exposed to development in the future if the rules change.

Mrs. Yerger said there's another portion of this to us and one of them is that we have according to our current ordinances, things like you have to have a certain amount of right-of-way when you develop. You have to have a 50 foot access when you want to develop. What happens is this has happened on two of our properties. Everybody agreed, beyond the access issue, this property was highly developable. There were some significant natural resources, but there were areas that could be developed; but because the access issue was going to require a special exception and/or a variance, Indian Valley came back and said they couldn't appraise this because they cannot appraise on a hypothetical decision down the road. Mr. McCormick said that's a really good case. That's such a hyper specific and we didn't fully discuss it, in general. There's lots of things to talk about. Like Officer Shelly would be a good example. That one we should talk about. He doesn't feel he understands fully the rules. Mrs. Yerger said that happened on a couple of our properties. It happened on Reading Road also. That's been another issue. Mr. Clemons said the appraiser is going to look at it and what you can do by right. There are properties he's been involved in, to deal with your landlocked issue, if somebody bought five acres in front of them, they would have the frontage. If he's a developer, and he's making an offer on this, he's going to combine parcels and get what he needs, but an appraiser, under their guidelines is going to look at what's a feasible use, is it something that is possible, etc. He understood that if you do a yield plan, that is what he calls a guesstimate. It's an item of how much detail your Zoning Officer goes through, but he doesn't think it's necessarily a determinant. Someone who does a yield plan, one of the things he suggested is you could say to the person based upon the yield plan that our Zoning Officer has done, this does not appear to be developable if you could present a yield plan and invest money. Now you are talking about someone's property you want to preserve, you say, go out, hire somebody to show us a feasible subdivision. Mr. McCormick said he thinks that is instructive, the federal program, but as you point out, the standards are different. They have a solution to a different problem; however, it does seem to him that the goal is to get an appraiser to put on their letterhead an estimate of the developable value. It can't be generally in this part of the country. It's got to be "I looked at Lot 1, 2 and 3, and it's worth". We should take the opportunity as we're allowed to communicate anything we'd like to the appraiser, not just the address. We should take the opportunity to point out to Indian Valley that according to this state, federal, whatever it is, market analysis, generally Northampton County is \$8,000, so you can start base lining. The goal is you are allowed to rely on the appraiser and so what you hinted in here was you don't just have to say, here's the calculus for yield plans, and here's the address. You're allowed to advocate for this

process. We should take this opportunity every time we set one of these up. He said he's seeing skepticism, do you agree with that? Mr. Clemons said he thinks you can make available to the appraiser, but he can't tell you how much weight he's going to get it. You could say to him, "look this area has a lot of natural resource restrictions, there is this program, we suggest you review". He thinks you want to know what that number is to feel comfortable with it. He's sorry he doesn't have what the number is for Northampton. You can provide him information that you think is relevant and he'll either say "what I do is figure out what the developability is". The other thing he thought you could do, as a policy, instruct the Zoning Officer when he's doing this yield analysis, to round up. Recognizing that this is a "guesstimate", that if you do have a property and especially in a property that has natural resources, you recognize that someone could refine this and come back with a higher yield plan, you round up so that if he's saying you are only going to get 1, 2, 3, we're going to give him the benefit of the doubt and we're going to go up to 2, so at least you have a situation where somebody is able to establish a value. Do you pay 100% of the appraised value? Mrs. Yerger said yes we do. Mr. Johnson said as far as establishing a base line or value for the property, how about when the County comes up with a value for woodland, farmland, and wetlands when you go for the Act 319? They come up with a value. Mr. McCormick said not of the development rights, they come up with a value of the land. Mrs. Yerger said then that's not a bad thing as if it's the actual value of the raw land. Mr. Clemons said it's a value of the resources. It is an interesting consideration. They are either saying as a woodlands, this land is worth x dollars. In one sense, that's the after easement value. There is a common level ratio and they multiply by a percentage, in Bucks County it's 10. When you really go through one of these appraisal reports, you are going to see they already reference what the assessed valuation is. That goes into the hopper already. Mr. McCormick said it's one of the starting numbers. Mr. Clemons said that's right. Mr. Johnson said is that a recognized minimum value? Mr. Clemons said he would say they use that as a mark baseline information. They are not going to look at a property that has a common level ratio and say "geez, this property is worth double of what the calculation is" unless they got a recent sale right next to it. They are really looking at sales. They are letting you know general information about this property, but in the final analysis, they should be finding sales of land that has similar characteristics and then other land that has easements on it. The science is if you go through one of these appraisals, they are going to adjust it up because this one's not quite commutable. They are going to adjust it down because this one isn't. They go through a lot of balancing themselves in arriving in an appraisal and probably look at assessed valuation as a guide too. He understands your problem really is in terms of what information you are telling your appraiser. Mr. McCormick said he doesn't think so. That might be part of the struggle with the solution. He will explain his view on what the problem is. The problem is there's a frustration that it appears it's going to be difficult or impossible to preserve some land because it's not possible to appraise the development right of that land because of something. Let's use the example of Officer Shelly who owns land. It is gorgeous. It has got a pond, swamp, hill, rock and every other thing that's on our list. It is through the roof. We said appraise this. It would be a shame if we lost these wonderful natural resources. Somebody said okay, let's look at this. Can we develop it? No. Why? Because it's a swamp and a pond and cliffs. There is a really nice field on the top and that's where his house is. If you look at this piece of land, you cannot build it. Everyone got very upset about what a problem this was and how silly it is and how lawyers rule the world aren't going to preserve this. We keep using the word problem, but this is not a problem. This is wonderful. This land if not buildable and it is not going to be built on. Our job is to preserve valuable land that is under threat. Not necessarily today, but is at risk of development and losing the resources. He's using that one first as it's an easy example. He knows it's not black and white and there's a lot in the middle and he also respects the whole point about just because the eight people who sit here now-a-days say you need at least two acres in that corner of town to build. Twenty years from now, they might say you need 1/8th of an acre and all of a sudden up pops a subdivision there. A lot of this is about the problem and he tries to view it as an opportunity. We have a budget to conserve land and we should constantly be looking for land that is not only naturally valuable, but is also developable. When you find the hard cases like the soccer guys and others, that's when it's not black and white. You use the word "problem". Mr. Clemons said it has been discussed that

it's a problem and let him get back to another thing. He doesn't know if you have a lot of folks knocking in your door who want conservation easements or whether you have a few. Mr. McCormick said we've had a few and it's been a bad run of ones where we can't do what we wanted to do. That might be coincidence, but it's a problem. Mr. Clemons said what Springfield and some other Townships do, and Lower Saucon may have one, is a ranking system. They rank properties based upon the number of acres, based upon its developability. Mr. McCormick said we don't have a ranking yet. We score them. Maybe we will rank them. Just for the purpose of decision, this one ranked number one. It is absolutely gorgeous. Mr. Clemons said part of that ranking would be developability, so it would get a low ranking. Mr. McCormick said bingo. Let's talk about that. He feels that way, but not everybody does. The score card has got to put some kind of developability criteria on that because now it's only natural resources. He doesn't want to get into jurisdiction issues about who gets to assess the developability. His point is the Township, forgetting the body, needs to assess the developability. Mr. Maxfield said for him, the Shelly property is not a problem. He sees it similar to what Mr. McCormick sees. To him, the properties they've run into are the Petrie and Bilous property. In one instance, these two are perfect. The one has 90 + acres, identified in the prime for saving area with the special exception creek crossing. The other one has 144 acres of beautiful woods, slopes, creek, with an easement that's too narrow to qualify for actual Township road. Ours is 50 feet minimum. Here we have two properties with abundant resources, and we can't say they are not developable, as all these people have to do is give a waiver or variance and/or special exception, and they are across the creek or they are into their property and developing them. He sees these properties as being developable, but because of a hypothetical situation, a clause with the appraiser, we can't even get an appraisal of either of those properties. Mr. McCormick said his genius idea on that one, Petrie, it is perfect. He has 40' and needs 50'. The question is that could change and change by two ways. Twenty years from now they could just change the rule, which is probably less likely, but in the meantime, either with the current rule, someone could waive the rule somehow. His genius idea was we should enter into an agreement of sale for the conservation easement with Petrie which specifies that the first thing that happens is the special exception is granted. The special exception is granted and now the appraisal can be done, not on a hypothetical, but on the actual developable land which has now been rendered developable and then the acquisition of the development rights. Mr. Clemons said you definitely can get a written agreement. Mr. McCormick said the world is full of them and it could happen in one minute and you don't have to wait months. Is that a possible way to do that? Mr. Clemons said each one of these is going to have a specific solution. Mr. Johnson said suppose you do something like that and you set a precedent, and now the other developer that doesn't want to develop land says well you did it for Petrie. Why can't you do it for me. Mr. McCormick said it would say the sole reason this exception is being granted and the exception is actually conditioned upon the subsequent closing of the conservation easement, and if but for the conservation easement, this exception would not be granted and it would be revoked. Mr. Clemons said if it is a special exception, that is required, in land use talk, that is a permitted use. That is generally considered okay according to zoning, subject to your meeting certain criteria. That is an easier one in the sense than saying the property needs a variance, which means you have to show hardship and you have to show that the property is practically valueless. You could in that cases, with a carefully written agreement, say that they are agreeing to sell us the property. The agreement is contingent upon them containing a special exception, that the Township will not oppose a special exception, subject to the understanding of the agreement that you are going to convey a conservation easement to the Township and that you've had an appraisal done assuming that the special exception is granted. Then you arrive at a value. That is a convoluted way to go, but if that's the only way you are going to get an appraised value because of these site restrictions, then that might be the way you have to go. You want to write an agreement of sale. You want that person tied into selling you a conservation easement, so part of the process is you have to say to the appraiser, give us a value if you get the special exception as there's an understanding that the applicant is applying for it and give us a value if you don't. You need to say in that agreement of sale that if they are granted a special exception, they agree, to convey a conservation easement to Lower Saucon Township for the sum of X dollars per acre. Mr. McCormick said those can be self

executing, those kind of things meaning that the agreement of sale is documented and the closing occurs upon the special exception, the pricing, the timing. Everything is worked out and it's contained in one document. Mr. Clemons said that's dealing with one situation.

Mrs. Yerger said now we go to the flip side of it with the variance issue because obviously you are going to a Zoning Hearing Board. Mr. Clemons said a special exception is going to the Zoning Hearing Board. The standard, the burden is less. Mr. McCormick said it's just goofy to try for the variance and to document it up if it's unlikely to be given. Mr. Clemons said what is the variance issue? Mr. Maxfield said he thinks the variance would be the width of the access road which would be 30' or 40' as opposed to the 50'. Mr. Clemons said he's not Linc sitting here, but if he is Linc sitting here with this other hat, he does get concerned about precedent in that case because that gets back to what you were raising in terms of well, you gave a variance to somebody who didn't have the required width and he doesn't think it's sufficient to say we did it so we could buy a conservation easement on the property. Mr. McCormick said slippery slope and precedent arguments, assume that lines can't be drawn. You are setting a precedent which is we grant variances upon conservation easements. Mr. Clemons said the rules for a variance are not we're granting a variance to accommodate this nice thing. The rules for granting a variance are this property has a hardship. Mr. McCormick said but he doesn't. His point is if only the waiver, or whether it takes a special exception. Mrs. Yerger said the legal descriptions and the legal conditions are different. Mr. McCormick said if a special exception is easier gotten than a variance because the showing is less burdensome, then it seems like it would be worth pursuing this in the case of a special exception. In the case of a crazy variance that has got no shot, we'd never bother to do this. Mr. Clemons said we also have the question of precedence. He tries to keep lands undeveloped in two or three ways. One of the ways is through conservation easements, which is permanent and in good perpetuity, but if a developer comes in who wants to develop the land with a property owner that is not sympathetic to conservation easements, he wants to have as many legal obstacles as he can, and if that property only has a 40' wide access, he wants to be able to say sorry, and he doesn't want him to be able to say well you found a hardship. You found unique that this property you were going to buy a conservation easement on couldn't be developed, and you not only didn't oppose it, you were a proponent. Mr. McCormick said it's not black or white, but slippery slope arguments are dangerous because all of a sudden you can decide to never do anything. The question is the 40' one is very obvious of what it's all about. The 40' issue is about safety and access. If you are going to put a bunch of houses, fire trucks and cars have to be able to get in and pass. If the transaction is going to render the landlocked land, undevelopable, he doesn't believe you are setting a precedent that the new rule in town is you only need 40' and not 50'. Mr. Clemons said that isn't the legal standard. If the legal standard for a variance is that the property suffers a hardship that renders it practically valueless without the granting of an easement. He likes to think outside of the box, but he doesn't want to come here with a solution and it gets back to the Board of Supervisors and Linc comes in and says if we say that a property that has only 40' of right-of-way is entitled to a variance, I don't feel like he can defend that just because you wanted to do it for a good purpose for a bad person to come in and say he wants the variance so he can develop the land. That's the kind of problem.

Mr. Maxfield said the other thing is we're talking as if we can orchestrate what the Zoning Hearing Board does, which is grant these things. They are a separate body that we are not to influence. Mr. McCormick said we are not saying that. We are saying if the Zoning Hearing Board in its absolute discretion chooses according to its legal standards to grant this exception, then the following happens. If they don't, then something else happens. Mr. Clemons said there's going to be some money spent. He's hoping the Township Solicitor is going to show up and say we don't oppose this, it's a good thing, and Council weighs in on it because of the fact this property is going to be preserved. That is a way to deal with one slice of this pie. That's what he considers a problem and that problem can be addressed in this slice of the pie by putting together an agreement and going in and getting the special exception then you have an appraisal that supports it. There are some other "creative solutions" you could ask the appraiser to appraise the value if you have a property that

doesn't have the necessary road frontage, but there's a lot in front of it that is going to enable its development, you can ask the appraiser to appraise both of these together and give you a value, assuming these two properties, you may not acquire them together, and he's thinking outside of the box. Mr. Maxfield said would that have to be with the agreement of the property owner? Mr. Clemons said the property owner would have to consent. Mr. McCormick said to the appraisal, not to the adjoining.

Mr. Beardsley said if that property owner who has the 40' driveway and needed 50', if he went to the adjoining property owner to get 10', and he gets a refusal, would that then make it? Mr. Clemons said if that property owner had an agreement from an adjoiner saying he would agree to sell you a strip of land sufficient to give you the required width, yes, you wouldn't have to go to the Zoning Hearing Board. He thinks the appraiser would look at that and say this person has the means now to get the subdivision and if an adjoiner is willing to enter into an agreement to remove that problem.

Mr. Johnson said if that person has an easement on somebody else's land does that give him the right to build a road there? Mr. Clemons said it depends on what the easement says and it depends on what the zoning ordinance says. He thinks that if a person has an easement that gives them the right to build a road and it doesn't say a right of access for one residence and some farm animals, and it has the required width, that's like a PennDOT right-of-way or somebody else's right-of-way. However, in the Township's he represents, they have to dedicate it to the Township. You have to give it to us so we can maintain it as a road. He also like the idea, to deal with your situation where the person doesn't have the road frontage and he's landlocked, if he has an agreement, even if it's an agreement that the guy doesn't want closure. The guy up front says he'll sell you his piece for \$80,000 an acre and that's going to affect the overall appraisal, but that appraiser can look at it and say now we have the necessary road frontage. It's going to impact the appraisal somewhat as it's \$80,000 an acre and you are going to have to pay for it, but it's also going to have a much higher appraisal for the piece that's a proper piece. That's a creative solution to that issue. It's along the lines of what we are talking about on what you can come up with so that can happen. That's putting a lot of things in play. That's requiring the front property owner to enter into this agreement or the guy that owns the 10' strip to agree to play with that. He doesn't know how savvy these owners are that you are dealing with. Somebody has to be the playmaker here. He doesn't know how active a role your EAC is allowed to take in these matters. Somebody has to spearhead this and somebody has to go and say let's go talk to this property owner who we may want to get an easement on later on and understand you don't want to do that, but we want to be able to put an easement on this property and be able to get some understanding that would allow us to get a fair appraisal on the property. Mr. McCormick said let's ask the idea was floated, did you guys speak to Linc at all about the concept of granting a special exception contingent on? Mrs. Yerger said it was discussed. He has concerns - the whole slippery slope. The whole precedent issues are definite concerns. Mr. Maxfield said they didn't get into it as Mr. McCormick was talking about it tonight. They talked about it to the point of can the appraiser understand that this could be granted. We really didn't go that far. Mr. McCormick said that is an objection to almost everything and the idea needs to have an advocate to push it forward. He doesn't want to push an envelope and do something that's inappropriate. If you just mention it, anybody who sits in that chair is going to have he has concerns. It's okay to have concerns, but it's worth subsequent conversations. Mrs. Yerger said she has the feeling it was more than just casual concerns. Mr. McCormick said was the full idea explained to him. Mrs. Yerger said probably not. Mr. McCormick said the concerns could be dead on or it might even be worse, or they may not at all. It's a complicated enough idea that it has to be well explained to a lawyer before they can fairly assess whether it's practical or not to understand what we are talking about. Mr. Clemons said ultimately it's going to take a vote of the majority of Council as they are the ones that are going to have to say we oppose this. Here's another possibility. Why not ask the Indian Valley appraiser to come here and sit around the table and say we understand there are rules for appraisal, we've got some properties we want to get some easements on, what would make it easier for you to come up

and establish a value. Would you be happy with an agreement from an adjoining property owner to convey a sufficient area. Would you be happy with one or more of these conditions and let's see what the path of resistance is that takes you away from worries about precedent, and frankly, where it involves as few people as it can. Mrs. Yerger said to Terry's point, the other part of this equation is point blank, Council was given a letter from the appraiser, flat out, saying he cannot do this appraisal because. That's what laid a lot of red flags. Mr. McCormick said we are talking about doing something that would maybe make them take a different position, not because we cajoled them or tricked them. It's very easy to say it's risky and a bad idea. This might not work, but he thinks it's a good idea to sit down with Linc and helping him understand exactly what we are talking about doing here so he can think about it. You are disappointed that we can't preserve that Petrie land. He's hearing a lot about how his idea isn't great, but he's not hearing any other idea. He just doesn't want to take that letter. He's on your side. Mr. Clemons said the one side was to see if there could be an agreement. There is another possibility which is to request another appraiser. The good news is that the Indian Valley didn't come back and say there's no value. He doesn't know how Dave Palmer at Building and Land Group would handle this. He doesn't know how Jim Skanzilla would handle this. He doesn't know who is up in this area who would do appraisals. He was kind enough to tell you there's no value, so that opens the door for you to go to someone else. You could go to someone else and tell them to do this appraisal or go to someone else and say, we really want to appraise this property and know there are restrictions, but hope you can come up with some value. You can give some sort of a signal to the appraiser that hopefully in good conscious you can come up with a value. That might be a way that has fewer losing pieces. The problem you are having here is there are a lot of moving pieces to get where you want to be. It's not that it's not a good idea, and it's something that might be doable but there has to be an advocate for that idea. He hasn't even seen the letter from Indian Valley. You've got a number of obstacles to overcome. You have Linc that may or may not be up on this. He's got things that he has to have in his mind which lawyers do think about. What is that going to mean for Joe Blow. At another level, we say, let's contact another appraiser. Let's not do a yield analysis in this case as we recognize this property has conservation value. If that is the consensus of the group that this is an important property to preserve, then rather than do the traditional we're going to do a yield analysis, rather than do anything, let's try to telegraph something different to this appraiser what we would like to see.

Mr. McCormick said let's pretend we got one that's golden, no challenges at all. Is the usual practice that Chris would do a yield analysis and include that in the request to the appraiser or does the appraiser does his own yield analysis? Mr. Maxfield said he thinks in the past, lately, probably Chris has been included with the appraisal, but in the past, the appraiser comes back to the Township and ask for a yield analysis. Mr. Clemons said he never had anyone from Indian Valley ask for a yield analysis. He's never had Dave Palmer or any of these appraisers ask for one. He thought it was the policy of the Township, not that he would criticize, and he doesn't think there needs to be a yield analysis.

Mr. McCormick said it's your concern that we might be taking the gun out of their hands. You send them the request and say by the way, the yield is zero, you haven't left them with a lot of place to go. Mr. Clemons said if he does a yield analysis, it shows the yield exact. He's saying on these properties that you really see conservation value, then select another appraiser. Let him do his own analysis. He's not saying he's not going to look at this and say you need 50' of access, you only got 40' and that's a problem. Mrs. Yerger said she knows whoever was doing the appraisal for Bilous, he did call the Township and said he needs a copy of the Township's most recent ordinances about natural resource protection. How much of that was drawn from our actual ordinances and how much was drawn from other? She's assuming that's where this came from. Mr. Clemons said he thinks the attitude of the appraiser in terms of how he does his analysis is going to be influenced somewhat in terms of the mission is to preserve this property. If an appraiser knows you want to be able to preserve this and you want him to come up with a value, he's going to be looking for ways that can happen. If you are doing an appraisal for state tax

purposes, the appraiser says he's doing this for state tax purpose. What do you know it's going to be a low appraisal. It's an art. It's not necessarily a science. If you say we want you to practice your art within the dictates that you are bound by, and not do anything unethical, we'd like to see us to be able to make an offer on this property. If he looks at it and says he can't give it, what have you lost. Mr. McCormick said they won't charge you if they don't do it.

Mr. Johnson said we are hung up on this if the property isn't worth anything and you can't build on it, we know darn well that you couldn't have that property for zero dollars is no one could build on it. It has a value. The landowner isn't going to give it to you for zero dollars. There is a value on it. There's a market value on it, why can't we go with that instead of this business how many houses can you build on it. Mr. Clemons said if you are buying it, you can, but you aren't buying it. If you are buying it, then it's what its fair market value is. He might buy it so he can keep ten head of cows on it, raise some goats, and he doesn't care about a subdivision. Clearly, it has some value, but that's not the easement value. That's what the value of the land is. In appraisal talk, that's the before value. That's what you and he would agree to a price as an arm's length transaction. You are buying conservation easements. You are not buying the land. We take that value and then we say, if we put an easement on it that says you can't develop it, you have to protect these resources, what's it worth afterwards. If the before value is no development, then that's the same thing with or without the conservation easement. Mr. McCormick said that's a real fundamental point and it drives every one of these debates we have. It's not to say the land is worthless. The land may be worth many millions of dollars. Last meeting he talked about his back yard. You can't build on his back yard, but if someone tried to buy it, they'd have to pay him. Our contract is going to take away from this guy the right to develop, but he's going to keep every other thing. You have to appraise what we are taking away from him and if the appraiser comes in and says Mr. Bilous land is worth \$1 million right now, and it still would be worth \$1 million if you took away his development rights, because there aren't any and then you'd still do that math. \$1 million minus \$1 million which equals zero – that's the development right. It is logic. If we really want to preserve Bilous, we can ask an appraiser to appraise the land and we can buy it from him, but that fundamental point drives all these conversations. Mr. Maxfield said if he's willing to sell. Mr. McCormick said and if we can afford it. Mr. Maxfield said the thing is we're spending public money. If we are spending public money, then they want it based on an approved certified value and the public has the right to know what that value is. The only way to do that is to go through a legal appraisal situation. Mr. Clemons said he thinks there may be a little more wiggle room there that you are giving credit to the appraisers for. That's one of the things he would consider and in some of these instances, it may produce a better result for you. You may end up that you have this property that you know somebody could get a special exception or you know somebody could buy the frontage. You are going to have to do one of these more creative things. That would be the first place to start and send this thing to David Palmer and tell him to take a look at it. Tell him you really want to acquire and does he see an appraised value in this.

Mr. Johnson said when you are talking about and some guy has an easement and you are talking about getting some kind of agreement that from the owner of the land that the easement goes over that would allow him to build a road there, does he actually have to spend the money, do the deed, and all those things or can you say in a hypothetical arrangement, the land would be worth.... Mr. Clemons said it can't be a hypothetical. He's speaking for an appraiser who is not here at the table. In his world, if he has a contract, and it's an enforceable contract from you, my neighbor, agreeing to convey the strip of land and it's going to give me sufficient area, for whatever price, now he takes that to the appraiser and tells him this is not speculative anymore. He has the ability to put in a road that is 50' wide, now consider that when you are arriving at an appraised value. Mr. McCormick said it doesn't have to close, doesn't have to sell. Mr. Johnson said the guy actually doesn't have to go through with the conservation easement. Mr. McCormick said it could even have an out for the conservation easement not happening. It could even say "Dear Neighbor, I am trying to conserve my land. To do so, I need to buy ten feet of your land. Will you enter into an agreement of sale with me so I can get 10' of driveway?" You sign that, it's an enforceable

contract, but like every other contract, there are outs for closing. Closing doesn't happen simultaneously with the agreement of sale and that might work. Mr. Clemons said you can say this agreement is contingent upon the settlement occurring within 90 or 180 days and if it doesn't the agreement is null and void. There are ways to get there with that. He's hearing some concern with this person. Mr. McCormick said Bilous is tough, it's more about a stream. It's the Petrie one. The front yard even had an option on it from the developer. Mr. Maxfield said Petrie had to go to court to go through the other property. Mr. McCormick said they were blocking his driveway? Mrs. Yerger said yes. Mr. Maxfield said they wanted to use the old easement and the property owner in the front said no, so he went to court and got it. They got the minimal, so that's why there is a problem as it's the minimal width for one house as opposed to developing it. Mr. McCormick said if we approach that front yard guy and say we'd like to buy 10', he'd probably say it's not for sale. Mrs. Yerger said on the Bilous property, there was no yield analysis done prior to the appraiser going out there. He's the one who came back with that. Mr. Maxfield said that special exception has to first exist. Mr. Clemons said one of the things that might be relevant to the appraiser and something he'd want to talk about, these difficult ones, it's just a matter of handing them off. You need to sit down with the appraiser and talk. What has been the history on Lower Saucon Township with people getting a special exception to cross the stream. If a special exception is something that is fairly routine in getting, that might influence somebody in coming up with an appraised value. On the other hand, if the history isn't good, then it becomes a hypothetical thing. It becomes a speculative thing. Mr. McCormick said he doesn't know the land there, let's make it a hypothetical thing where it's not Petrie and Sandy, but you have a guy who wants to conserve his land, but is so challenged by the stream and the special exception, is there a way to work with a collaborative, good faith neighbor where that person could convey an easement for access to that land. The reason that can't be developed is no one can get to it. What if we fix that and how would we fit that? We could buy land that would give it access. We could buy an easement. You could pop a road in, now all of a sudden, it is developable and would yield dozens of homes and away we go. Mr. Clemons said the more he thinks about this, there's no silver bullet. He wonders if it isn't something to pursue as an amendment to the conservation easements act to get a presumption in that act that all land that is being preserved has some minimal conservation value that's established by that statute or that is established in the way that they did in the RCS program. If you had some state recognition of that, then that could be an exception to this appraisal process. Mr. McCormick said you don't mean changing our ordinance? Mr. Clemons said no, it has to be a state statute that says you have to pay appraised value. In Bucks County, the elected representatives are very much behind conservation easements. It might be that a bill that is mulled by this RCS program, and the nice thing about that is you have readymade values and it could be adopted and have state wide applications. Just say that in cases where there's not a readily established appraised value, you could use this other value and it doesn't mean you have to pay that. In Springfield, we are only paying 65% of the appraised value. You could say, sorry, because of these limitations, we'll pay 65%. He's seeing every one of these properties, there is a pre-substantial kink. When you add up the number of kinks you have managed to encounter here, he wonders if it would at least be worth talking to our representatives in Bucks County and talk to your representatives and see what they are willing to do.

Mr. McCormick said PALTA is the kind of group that should run that. Mr. Clemons said PALTA has an interest in this. That is a state wide problem and it came up at the PALTA conference and they were talking about it. None of these solutions are quick turnovers. You still may be able to be creative. He doesn't know who the players are in these various problem properties, but you could do parallel tracks. It's not one or the other. Let's see what's involved. The special exception he would tend to think that properly explained to the Board of Supervisors, carefully limited to hear somebody who wants to preserve their property, we cannot pay them a fair value without this special exception and we have an agreement of sale that obligates them to convey us this after they get this special exception that supports the value. It doesn't seem that far outside the envelope.

Mr. Maxfield said with Council being able to express their comments to the Zoning Hearing Board on it, it probably wouldn't be based on hardship. Mr. Clemons said special exception doesn't require hardship. A special exception is a use that is permitted and it's presumed to be okay as long as you can satisfy special conditions. He would almost think that some of your wetland crossings, if again, you are saying that we're never going to use this wetland crossing. We are, in fact, going to put a conservation easement on the property that a board could find the satisfaction. He didn't bring the MPC on what the criteria is, but he would be happy to talk with Linc about it and be happy to articulate it to the Council at a public meeting, but for that specific one, that seems to be within reach. It's not requiring somebody to bend the ordinance. It's not like a variance. It's not like this is not permitted, but we want to preserve this property, so pretend that it can be permitted. That's the kind of thing that makes a lot of people squirm. Mr. McCormick said with the variance, it would be, and he's not recommending that we do it, but it's a good enough idea to warrant some additional conversation.

Mr. Beardsley said he wanted to talk about a related subject. Once the property has been appraised and an offer is made to the property owner, we have a property owner right now that said his interpretation of the letter he got was there is no negotiating. It's the appraised value. Mr. Clemons said you made an offer of the appraised value and he is correct that the Township cannot pay more than the appraised value. Mr. Beardsley said the property owner interpreted that to him that if he wasn't going to accept this value, there was no sense in talking to anyone any more about it. That's not true as there are tax incentives and there may be other things he's not aware of. He said no negotiation. Mr. Clemons said he doesn't know what you are offer letter says. Months ago at a meeting, he gave a package that he had developed of letters, and that discussed the other benefits. Mr. McCormick said Mr. Skraban can get his own appraisal also, but he won't pay for it if we're miles apart. Mr. Beardsley said there are a couple of other things that can happen. He just wants to get past the part, perhaps in our letter, if they are not interested in selling it for \$290,000.00, don't bother because he can do his own appraisal for the IRS that says it's worth \$500,000.00 and as long as the IRS buys it, we don't care. Mr. Clemons said one could say that you've got too many chefs stirring the stew. He came up here how many months ago and he gave examples of letters you could send to the property owner telling them about the benefits of the easement program; telling them about the bargain sale; and it really laid out a lot of things that he was recommending. He charges other people for this, but he just gave you these form letters. You don't have to use them and he doesn't know what happened to them. He doesn't know to what extent this is a Lincoln Treadwell matter or to what extent it's a Terry Clemons matter and that's for the Council to determine and for you to determine. In Solebury Township, the Municipal Solicitor doesn't handle these transactions. The Open Space Committee Solicitor handles them. In Springfield, it's one in the same and the same in other Townships. What he's saying is that Linc is handling eight or ten different areas of the law and he doesn't know what these interactions are with the buyer. He considers himself a salesman when he's dealing with these folks. He wants to sell them on the idea of doing the easement, so he wants to try to talk with them. You are correct and he's correct that he cannot pay more than the appraised value; however, there are other benefits that can be pointed out. The letter doesn't point out those benefits. One could write a form letter that says that in addition to the appraised value, if you obtained an appraised that would establish it at a higher value, you would be entitled to a charitable contribution, and he'd be happy to discuss some of these other items. He's not saying one is right and one isn't, it's just a question of how you keep this program moving at a very important time. This is the time to be buying conservation easements. Mr. McCormick said on a very important property. Not just the point you make about if he got an appraised value that was higher, he could get tax benefits by describing it as a bargain sale, but we even allow for a rebuttal appraisal which again, if we are miles apart, maybe he won't bother with, but the fact that we won't pay more than a 100% appraised value doesn't mean we won't pay more than that because that's our appraisal and don't we have a process that if a landowner wants to get their own appraisal, we meet in the middle. Mr. Clemons said let's talk about two things. One is the Second Class Township Code. The code says that a purchased price can be based on the appraisal or the average of two appraisals so that you could have a second

appraisal. If you think this is a very important property, you may want to authorize a second appraisal and get him to pay for it. If you pay for it, we'll obtain a second appraisal and then it's not a question. In his mind, there's a question of who obtains the appraisal, and he thinks it should be the Township. You could say if you agree to pay for a second appraisal, then we'll have the second appraisal done or if you agree to pay for that second appraisal and this deal doesn't close, that's another way. There's a number of ways that could be done. If you think the appraisal is on the low side, then you can go out and get it. Another thing, some programs, and it becomes a problem, and it's not required by the law, the Natural Areas Program in Bucks County requires that the appraisals be within 15% of each other. What happens is somebody comes in and they get an appraisal that is 20% more, then the County has to back peddle that process and says we will assume it has a value 15% above the lower then they'll average. Mr. McCormick said even at 15%, that's \$40,000.00, and that's a lot of money. Mr. Clemons said you still have to have an appraisal. Mr. Johnson said does he hire his own appraiser? Mr. Clemons said the appraisers are independent appraisers. He thinks that it is better for him to pay for the appraisal that the Township hires. He can't have a real estate broker do it, or even a SRA, residential appraisers. You have to have a particular classification, which in all honesty, this guy may not know. He has a guy that he knows that is a fantastic appraiser and he cannot appraise open space and he's been telling this guy for years to go out and get his general certified appraisal license.

Mr. Maxfield said that's interesting and we can go a couple of different routes. Mr. Johnson said if he selects an appraiser, and the Township agrees that is okay, then it's okay? Mr. Clemons said no, there has to be a letter from the Township saying "Dear Mr. Palm, please do an appraisal on this property". Now you can say to him here's a list of general certified appraisers and point to one and we'll have that appraiser do it. Mr. Johnson said the Township has to tell the appraiser. Mr. Clemons said in his opinion they have to have the appraisals that are obtained by the Township, not by the property owner. There are no court cases on this, it's just the way he reads the statute. He's not willing to tell anybody there are people who would use the property owner's appraisal. Why create that problem, it's cleaner. Mr. Johnson said we said we would pay for the first appraisal, but he owner has to pay for the second one. Mr. Clemons said yes, that's it. There are only a handful of people who are general certified appraisers, so you can give him the list.

Mr. Clemons said thank you. You have some exciting problems up here. His frustration frankly is he comes up here every six months or so and we have this exciting discussions, then he fades off. He'd like to be more involved in helping you. Mr. Maxfield said their direction to their staff was this rollover was supposed to occur from Linc doing this and passing it on to our Open Space Solicitor, and we are still waiting for that. Mr. Clemons said he's willing and he's not trying to be modest, but it's what he does, it's what he enjoys doing and he's invested a great bit of time in it.

Mr. McCormick said we should list them, rank them, and take the ones at the top of the list and articulate pros and cons and risks and concerns and talk to people. The PALTA and change in the law is a fantastic one except it's a five year plan. Mrs. Yerger said it wouldn't hurt if anyone who took notes to put them into writing with their suggestions and she doesn't see any problem in sending them out prior to the meeting for discussion and discuss them at the September meeting. It would be helpful if it would go out a week before the meeting. Mr. McCormick said he can put a Excel spreadsheet table together with six ideas, in alphabetical order, the name of the strategy, the definition of the strategy, some possible pros and some possible concerns.

B. NATIVE PLANT GARDEN

Mr. Hans Riemann passed around two plans he had drawn. The first set is two views of the proposed water feature. There's a top view and a side view. The second set of paperwork has a list of a proposed plant list with some numbers associated and the other side has a tentative time table for completion of the project. The volunteers have just about finished the weeding for the season. The approximate time frame this year was about half of the time spent last year in getting the

garden back in shape. Most of it involves removing grass, dandelions, that sort of thing. The volunteers have learned that some plants are easier than others to take out. That's why some of the dandelions did come back this year. The garden is pretty much ready for this final phase of planting construction. Not to confuse you, but two items that he doesn't have finalized in his paperwork here, is the power to the pump to operate the waterfall which isn't a big deal once the masonry is in place. The other one is the labeling which you will see was on the original paperwork that he gave you. The map key will be done by next spring by the Scout and is part of her project and was approved by the Girl Scout Council. They were especially pleased with the collection of the storm water infiltration idea with the rain barrels. As simple as it is, it was a great idea to get into the garden for infiltration.

Mrs. Yerger asked Hans to go over the plant list. It is very self-explanatory. It makes sense to her. Mr. Riemann said when he did itemize, the particular list he had is going to cost a little more than his original estimate. He had put in for \$750.00 and this group of plans is going to cost \$900.00. If there is some opposition to spending that extra \$150.00, then he can try to tweak it somehow. This is a good mix of plants to finally finish the plantings and really make it outstanding and will really give it that extra touch. Mrs. Yerger said it looks good to her.

Mrs. Yerger said they can move on to the waterfall. She knows the power is an issue. We talked in terms of solar potentially, then he said the trees were in the way for the sunlight needed. Do we have any idea of the cost of this? Mr. Riemann said that's in the original paperwork that he gave to you last month. It's \$1,650.00 and that includes the stones, all materials, the footer, the structure itself from the ground up. The one item he wasn't sure about was that it's only going to be about 3-1/2' tall. With a structure on that size, he usually only puts a 2' footer in, but he doesn't know if the Township requires something deeper for that. The pond will be in a sand bed about 4" to 6" of sand beneath. It has a nice cushion and it will be dry laid with stone coping around the edge of the pond whereas the rest will be a masonry structure to hold water in and then re-circulates up. Mr. Johnson asked if a solar panel would create enough energy to run the waterfall? Mr. Riemann said one of the similar ones that PennDOT uses to power those signs that are on the highways. Mr. Maxfield said would we necessarily have to have the solar panel right at the pump? Mr. Riemann said no. Since he's trying to tie in the old building by starting with some stormwater type stuff to get us actually showing we are going to be doing something with the building and the garage, he thinks eventually if we can talk to the Township into taking a couple of trees down that are really not native trees around that building, you'd get enough sun to put one on the building and/or the garage. Mr. Johnson said if you are going to run a wire to the pump, you can put the solar panel out in the middle of the lawn someplace and then you don't have to cut down any trees. They make post mounts for those solar panels that they use on houses and you could put it in the lawn where there's lots of sun. Mr. Riemann said there's another place that is readily available that is used for only parking cars right now and it's sun right now – the police corral which would be another place to put an array of panels. Mr. Johnson said one solar panel would probably do it. Mr. Riemann said true, but again, if we are moving in the green direction, you start with one and have the capability to run the Township building eventually on panels. He's always one step in the future. Mr. Johnson said let's look at it as just getting a solar panel to drive the pump in the middle of the lawn where there's a lot of sun.

Mrs. Yerger said with the approval from the Council of the Scout, does she need this whole thing approved to comply with her requirements or is it the planting or the planting and the waterfall? What did she submit? Mr. Riemann said she submitted everything on the list of the projects including the waterfall pond aspect because it relates to the wildlife certification. It's literally part of the garden. The only thing they don't have is the last three pages of paperwork. They don't have a plant list, the detail of the waterfall, but they do have the plant list. They also have the map of the finished part of the garden. She would need the whole project to be approved. Mrs. Yerger said quite honestly, it's budgetary. They can do a recommendation, and she doesn't know if we, as a Council, want to wait and see if we can get the cost on a solar panel. Mr. Riemann said typically

the pumps he's installed already have the capacitor to convert the 120 to whatever amperage they need. It's like any other appliance. The pump is only going to draw what it needs. Mr. Johnson said if you have to run a 120 line to the pump, that's expensive. If you use a 6 volt line underground, that wouldn't be a big problem. Mr. Riemann said he doesn't know enough about electricity to answer that. It's really just the size of the wire. The same basic components, the conduit, the outlet connection that comes out of the ground near the waterfall and any standard swimming pool has them, and then into the building and wiring up to the system in the garage is all standard. The only difference would be in the wire to carry that electricity. Mr. Maxfield said the exterior wire you could bury in the ground and you don't even need conduit. Mr. Riemann said the volunteers are itching to do something other than weeding and maintenance. They are ready to plant and dig footers. He can get them to dig the line for the electric to the garage. Mr. Johnson said if you use a 6 or 12 volt pump, then at a later time you can install a solar panel and would not need a converter. Mr. Maxfield said let's do what is most efficient. When you were talking about putting a panel on the garage roof, how much would the garage roof be covered? Mr. Riemann said standard panels are about 4'x8' or 3'x6'. There are variations in size. Mr. Maxfield said how much tree cover would be in the way right now? Mr. Riemann said he can't give you that answer right now. Mrs. Yerger said so we don't hold up the Scout, do we want to recommend the planting list so you can keep moving? That way we will have another meeting as will Council before you need the final determination on the water fall, what's going to power it and how you are going to install the power sources. In the meantime they can talk to our maintenance people to see if and when any plans are being done with the house and maybe they have some suggestions on installing the waterfall, which is the long run, will end up with them taking care of it. She assumes Roger works with an electrician, so he should review this. We will have this put on the agenda. Mr. Riemann said he's hearing to break up the plan in two parts? Mrs. Yerger said for now until we get some questions answered. She is willing to make the recommendation the plant list to Council and also recommend who they need to talk to about solar panels and the best way to go with powering.

- MOTION BY:** Mrs. Yerger moved to make the recommendation of the plant list to be approved by Council for \$906.00.
- SECOND BY:** Mr. Maxfield
- ROLL CALL:** 4-0 (Mr. Hijazi, Mr. Guerra, and Ms. Ray – Absent)

Mrs. Yerger said you might want to come to the Council meeting next Wednesday as this will be on the agenda. Mr. Maxfield said you might want to call the Township and they may want you to talk to Roger and explain what you need. Even if a line goes in, he's going to have to know exactly where it is. Mr. Riemann said or at least tell us where it goes.

C. TECHNICAL DEFICIENCIES FISH AND HABITAT RESTORATION BSA EAGLE SCOUT PROJECT

Mrs. Yerger said you have the paper work in your packet. The Boy Scout is doing a habitat restoration along part of the Saucon Creek and he was cited with some technical deficiencies from the Northampton County Conservation District. It looks like the rest of his paperwork was in line, and he did go through the rest of the protocol, so barring any other discussion, her suggestion would be to approve this as long as he complies with all regulations from the entities that he needs to which would be comply with the letter that was sent on July 26 from the Northampton County Conservation District and comply with all recommendations and regulations as per DEP and PA Fish and Habitat permits. That's what he needed to comply with.

- MOTION BY:** Mrs. Yerger moved to recommendation that the EAC will support his project should as long as he complies with the recommendations from the Northampton County Conservation District letter and complies with all regulations and permits from DEP and PA Fish and Habitat.
- SECOND BY:** Mr. Maxfield
- ROLL CALL:** 4-0 (Mr. Hijazi, Ms. Ray, Mr. Guerra – Absent)

Environmental Advisory Council
August 10, 2010

Mr. Johnson said it would be a good idea to forward this paperwork to the Saucon Creek Watershed Association. Mrs. Yerger said we will do that.

MOTION BY: Mr. Johnson moved to recommend that the EAC forwards this paperwork that was received on the Eagle Scout project, along with our recommendation, to the Saucon Creek Watershed Association.

SECOND BY: Mr. Maxfield

ROLL CALL: 4-0 (Mr. Hijazi, Ms. Ray, Mr. Guerra – Absent)

IV. DEVELOPER ITEMS

A. KRESSLER/UNGIRAN LOT LINE CHANGE #LL 01-10 – WASSERGASS ROAD

Mrs. Yerger said she has a map. We're going from three lots to two larger lots. Nobody saw any environmental issues. There will be road access to each lot. We can take no action or make a recommendation. The EAC had no comment.

B. METRO PENNSYLVANIA PCS SITE PLAN #SP 02-10 & CONDITIONAL USE #CU 02-10 – 1995 LEITHSVILLE ROAD

Mrs. Yerger said they are proposing a co-location on an existing cell phone tower. It's by Leithsville Fire Company. There is no environmental perspective. We always encourage, in the Township, co-location as it saves us from having another cell tower. Mr. Maxfield said is there any additional lighting? Mr. McCormick said he read the packet and it doesn't mention any. The EAC had no comment.

V. APPROVAL OF MINUTES

A. REVIEW AND APPROVAL OF JULY 13, 2010 MINUTES

The July 13, 2010 minutes were tabled until the September meeting.

VI. OLD/MISCELLANEOUS BUSINESS

A. ADOPT-A-ROAD PROGRAM – PICK A DATE IN THE FALL FOR CLEAN-UP

Mrs. Yerger said we selected a site last month and Roger said there are better sites. We selected Bingen Road from Reading Road to Old Mill Road. Roger suggested Reading Road from Route 412 to Bingen Road. Mr. McCormick said that is a much better road. It's mostly along the creek and a whole lot of folks, families, fishermen, others, use that which means they probably accidentally litter once in awhile and also it's very helpful for it to look pretty. He thinks it was a great recommendation; and especially if we can get our sign on the east end of the road which it's a state road, so maybe we can, maybe not.

Mrs. Yerger said the EAC will clean-up Reading Road from Route 412 to Bingen Road. The EAC will do the cleanup on Saturday, October 2, 2010 starting at 9:00 AM.

MOTION BY: Mr. Maxfield moved that the EAC re-adopts a change of roads from their previous motion at the July 13, 2010 meeting and that they will adopt Reading Road from Route 412 to Bingen Road as recommended by Roger Rasich.

SECOND BY: Mr. Beardsley

ROLL CALL: 4-0 (Mr. Hijazi, Ms. Ray and Mr. Guerra – Absent)

VI. UPDATES/REPORTS

A. 9TH ANNUAL COMMUNITY DAY – AUGUST 21, 2010

Mrs. Yerger said on August 21, 2010 is Community Day from 9:00 AM to 3:00 PM at Borough Hall and from 3:00 PM to 9:00 PM at Dimmick Park. The Township is going to have a booth. We had talked about setting out the information on safe lawns. Mr. Guerra went over them and said they were really beneficial. It wouldn't hurt to have all of them out there. We will make sure that this will be out as information from the EAC. We can also get Laura Ray to put it on our website. Mr. Johnson said Mr. Beardsley asked for a map that we have lands preserved. Mrs. Yerger said that will be very easy to do, she will ask Chris Garges. We can go with preserved properties. If there is anyone that can volunteer, please let her know. We can get the information to Mr. Cahalan that day. Mr. Cahalan can put the map out and the landowner's brochure that we have from the Township. This gives them the ability to contact you if there are any questions.

B. FALL ELECTRONIC RECYCLING EVENT

Mrs. Yerger said Diane was kind enough to do research. She spoke with Bonnie at AERC. They would be interested in coming, but they are going to charge per item. It would not be free. The charge goes according to how much tonnage - the more tonnage, the less charge per item. Mr. Johnson said who is going to collect the money. Ms. Dancho said we would have to charge the residents? Mrs. Yerger said yes. Ms. Dancho said do you think the landfill would subsidize that or pay half? Mrs. Yerger said we could ask them. Mr. McCormick said it's such a shame as when people see they are getting charged, they put it in a big black garbage bag. Mr. Johnson said he heard their charge was like a dollar an item. Mrs. Yerger said if that's the case, if you want to call them. There is a packet of information here Mr. Johnson could have. There is another alternative, Jeffrey Buchman and they do it differently. Some items they charge for and some they will pay for. Maybe we can make that a wash and get a list of charges. They will pay the Township \$2.00, \$3.00 or \$4.00 for monitors. Mr. Johnson said does Jeffrey have certification like AERC? Mrs. Yerger said there is paperwork. Mr. Johnson said it's up to the Township to set this up. It's their liability. They are the ones that are going to get the bad press if anything goes wrong, so he thinks it's up to the Township to call these people. We can wait and have one in the Spring. Mr. McCormick said somebody used AERC, so we thought to use them. How bad could it be. Let's pick the one that will pay for some stuff, charge for some stuff, and forgive any liability if it's just a couple hundred bucks. It doesn't seem like a big risk for the Township to take as long as they have the certification that we are looking for and then we can see what the numbers are. Mr. Maxfield said he likes Buchman as they will also take TV's free of charge and they have a market for silver TV's. They have a landfill policy and do not even have dumpsters on the property as they recycle everything. Mr. Johnson said what started all of this was AERC has all of the certifications to do it right. Mrs. Yerger said she understands that, but do you honestly think people are going to come and pay for every piece. Mr. Johnson said the reason we decided not to go with A-Plus was they didn't have the certifications like AERC. How about Jeffrey Buchman, how is he as far as certifications go? The certification was the thing that started this whole thing. Mr. McCormick said that should be a prerequisite and once you've got the certification, then we can look at the price. Mr. Maxfield said what we were worried about was were these things really getting recycled. If they have a no landfill policy, they recycle everything. Mr. McCormick said it's alright to say the right things, but it's another thing if they are really doing that. We felt A-Plus was not entirely forthcoming. If this guy, Buchman is as good as he says he is, let's call and ask him for the certification, then we're done and go with him. It seems like it would be a wash. We'd have to tell the residents they don't have to pay. If we end up paying a couple of bucks, we pay them. Mr. McCormick said if it's \$1,000.00, we never use them again. Mrs. Yerger said we're looking for certification. We need to know whether there is going to be an operation in New Jersey with Buchman. Mr. Johnson said AERC has a facility in Allentown. Mr. McCormick said we are talking about Buchman as when the residents find out we're charging, no one is going to come.

Mr. Johnson said go to the Lehigh and Berks County recycling event. Mrs. Yerger said she thinks AERC is going to be doing Northampton County, then they can take it to the Northampton County one and it will be electronics as well as hazardous waste. Mr. Boos said promote the county one and just get rid of all your waste. Mrs. Yerger said we can check this one out and see if it's viable, and we can promote the County's. Mr. McCormick said we should always promote the County's. Mrs. Yerger said we can coordinate with the County. She needs three things done. The certification checked on Buchman and see if they are viable; list of clients; and we need to see a date if it's going to conflict with the County. Ms. Dancho volunteered to find out the information requested by Mrs. Yerger. Mr. Maxfield said he thinks it would go great as we haven't had a TV pickup for a couple of years.

C. SPRINGFIELD TIRE RECYCLING EVENT

Mrs. Yerger said we have been asked if we would like to participate Saturday, September 18, 2010 to promote the Springfield Tire Recycling from 9:00 AM to 2:00 PM. Karen Bedics from Springfield Township said they are in need of volunteers for loading and unloading. We are going to be a joint participant. It's taking place at the Springfield Township Municipal building. If you can volunteer, please let Mrs. Yerger know and she will call Karen.

VII. HELLERTOWN REPRESENTATIVE – REPORT – No report

VIII. NON-AGENDA ITEMS

- Mrs. Yerger said she was at a talk about farmland preservation and preserving farmland in Pennsylvania. Our VP of Resource Protection, Jeffrey Marshall, went to the National conference. At the conference it came up that they have been analyzing the agricultural soils nationwide. The conclusion they came up with was Pennsylvania's soils are probably the best soils in the country and they are considering having them listed almost like a natural treasure because of the yield and the composition of the soil, they are considered the best in the nation. There was an incentive for farmland preservation here in PA.
- Mr. Johnson said last month we made a motion to forward the changes in the EAC by-laws to Council, was that done? Mrs. Yerger said it was forwarded, but the Township Solicitor was on vacation and we only meet once a month in the summer, so she's assuming it will be coming up soon.

X. PUBLIC COMMENT – None

IX. ADJOURNMENT

MOTION BY: Mr. Johnson moved for adjournment. The time was 9:44 PM.
SECOND BY: Mr. Maxfield
ROLL CALL: 4-0 (Mr. Hijazi, Ms. Ray and Mr. Guerra – Absent)

Sandra Yerger, Chairman

Next EAC Meeting: Tuesday, September 14, 2010