

I. OPENING

CALL TO ORDER: The Environmental Advisory Council meeting of Lower Saucon Township Council was called to order on Tuesday, September 1, 2009 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Sandra Yerger, Chairman, presiding.

ROLL CALL: Members: Sandra Yerger, Chairman; Tom Maxfield, Vice Chairman; Laura Ray, Secretary; Allan Johnson, Ted Beardsley; EAC Members. Absent: Haz Hijazi

Associate Members: Colin Guerra and Chiharu Tokura. Absent: Tom McCormick. Glenn Kaye arrived at 7:08 PM.

Hellertown Liaison: Terry Boos

Jr. EAC Member: Vacant

Planner: Kevin Kochanski – Boucher & James

PLEDGE OF ALLEGIANCE

II. NEW BUSINESS

Mrs. Yerger will ask permission from Council to have Jack Cahalan send Jessica Null, Jr. EAC member, a thank you letter.

MOTION BY: Mr. Maxfield moved to direct the Manager to send a letter of thanks to Jessica Null for all of her participation in the 2008-2009 year.

SECOND BY: Mr. Beardsley

ROLL CALL: 5-0 (Absent: Mr. Hijazi)

Mrs. Yerger said tomorrow night at the Council meeting we have some candidates showing up for the meeting, so hopefully, by October, we will have a new Jr. EAC member.

III. DEVELOPER ITEMS

A. SCENIC VIEW APARTMENTS REVISED SITE PLAN #SP 01-08 – 2021 SCENIC VIEW

Mr. Kochanski said the applicant, just last month was going in front of the Planning Commission in August, which they did go and there are still some outstanding items that need to be complied with in HEA's review letter. The applicant had agreed to an extension to the MPC clock to allow them to address those items and they will be resubmitting to the Township shortly to get those items addressed. Mrs. Yerger said until we get those items addressed, she'd like a motion to table this.

MOTION BY: Mr. Johnson moved to table Scenic View Apartments agenda item until we receive additional information.

SECOND BY: Mr. Beardsley

ROLL CALL: 5-0 (Absent: Mr. Hijazi)

**B. MEADOWS GROVE LAND DEVELOPMENT #LD 01-09 – REVISED SUBMISSION –
1770 MEADOWS ROAD**

Mr. Kochanski said they recently submitted revised plans. There are still some issues we are waiting to have addressed. There are violations out there. The plans do not provide all the information we are looking for, so we are still waiting for the applicant's response to that. In addition, it came to our attention that there are some issues with septic on the site, so that is another outstanding issue that is waiting resolution. Mr. Johnson said they have tanks now, they don't even have a septic system. Mr. Kochanski said they have tanks there and he thinks there was an agreement from a previous approval regarding the tanks.

Mr. Dennis Benner, attorney for the Meadows was present. He said he has Garret Benner with him, another attorney in his office. They represent the Meadows. There are tanks on the property. This property has got a long litany of a number of different kinds of issues. The consulting engineer has prepared a plan that, ultimately, there is going to be some zoning relief that they will be bringing before the Zoning Hearing Board (ZHB) in terms of trying to clean up what's already been done – at least to have some kind of a record. There are tanks on the site. We just provided to the Township, within the last day or so, pumping records in terms of the sewage issue. We just got into it recently. It is an ongoing process. He would suspect within the next several months, they will be getting their hands on what the full scope of all the issues are down there. Some of them undoubtedly will look for Council action. He doesn't even know what all of the issues are yet. The matter is moving forward. If there are any questions that the EAC has, he will try to answer them the best he can. The sewer issue, there is no sewer at all there. They are holding tanks and it's pumped frequently. Mr. Johnson said it's probably difficult to find suitable soil there because of the fact that the stream is so close by. Mr. Benner said you're right, it's very difficult and he doesn't know that onsite septic ultimately makes sense because on those occasions that does occur, that's an issue. He asked if there was a sewer line close by there or going to come close by? Mr. Maxfield said he thinks when the Giant was being constructed, there was a plan for a line going up Meadows. Mr. Benner said he doesn't know if it ever did. Mrs. Yerger said no, it never did. Mr. Beardsley said the Sewer Authority is working on a plan for that area. Mr. Benner said he knew that as it was in conjunction with the Giant but he doesn't know what the ultimate resolution is. Mr. Maxfield said there a five year delay plan which means you have five years to actually install. Across the street what they call Hellertown Park, which has trailers up and some bad septic issues, it's going to have to be addressed. Mr. Benner said he has suspected that as over the years he heard Hellertown Park was in need of some type of relief.

Mr. Kochanski said in light of this, he would recommend that we table this until we can get some additional information from the applicant.

MOTION BY: Mr. Johnson moved to table the Meadows Grove Land Development plan.

SECOND BY: Mr. Maxfield

ROLL CALL: 4-0-1 (Ted Beardsley abstained as he said he is a neighbor of the Meadows; Absent: Mr. Hijazi)

Mr. Kochanski said he does have plans with him this evening. This is a plan basically showing the existing improvements as they are constructed now. There is some discrepancy as to what previously existed, what has recently been built, and some of the information they have been requesting. Mr. Maxfield said staff is going to need more information.

Mr. Benner said while he's here, would it be appropriate to ask another question? Your Open Space Sub-Committee, his partner, Joe Piperato sent a letter if there was some interest in open space acquisition. Before they develop it, they have a property, formerly the Girl Scout Camp which sits right on the edge of Lower Saucon Township and right on the edge of Hellertown and Upper Saucon Township.

Mrs. Yerger said the papers she handed out, that one was all in Lower Saucon. Mr. Benner said that is 80 or 90 acres. There was a second one in Hellertown, and he didn't know what the appropriate process was. Mrs. Yerger said what we can do, since you have indicated interest and it was sent, you can take this one page application, fill it out, and it will get referred to the Open Space Committee (OSC). Mr. Benner said he did ask Jack, but he wasn't sure who was going to be at the meeting tonight. Mr. Maxfield said we are working on our flowchart tonight, but the basic process is that you show interest and give us information and permission to go on the property. We can have you meet with an Open Space Consultant and the OSC, which is a three man crew. We use Heritage Conservancy at this point. You can meet at the property or talk to you on what you want to do. We go and rate the property. Mr. Johnson said the next thing we do is come out to the property and look at it and walk around and see what kind of natural resources are there, and then we rate it according to a score sheet we have. Mrs. Yerger said they will also send you a copy of the Open Space Plan to see if your property may or may not fit into it. Mr. Benner said that's fine. Mrs. Yerger said we can send another application in the mail with what Jack is going to send to you. You'll get an information packet in the mail. Mr. Maxfield said the rating process we use doesn't put you at a number. It's basically an identification, yes, these are on the property, etc., but it doesn't really put you in a number order. Our OSC is Tom McCormick, Allan Johnson and Ted Beardsley.

IV. OLD/MISCELLANEOUS BUSINESS

A. REVIEW AND APPROVAL OF AUGUST 4, 2009 MINUTES

Mr. Johnson said page 2, line 46 should read "she tried to include everything we talked about last time". Page 3, line 2, should read "are there any agreements of sale and/or applications".

MOTION BY: Mrs. Yerger moved for approval of the August 4, 2009 minutes, with corrections.
SECOND BY: Mr. Maxfield
ROLL CALL: 4-0 (Absent: Mr. Hijazi; Abstained – Ms. Ray, Mr. Kaye and Chiharu Tokura – Absent at last meeting)

B. REVIEW OF PEST MANAGEMENT POLICY – MR. KOCHANSKI

Mrs. Yerger asked if anyone had any questions, changes, or corrections? Mr. Johnson said this policy is only going to cover land at the township. What about conservation easements? Mrs. Yerger said it can. Mr. Kochanski said on page 7, under Contracts and Easements, E. When the Township is granted an easement, the maintenance of the easement shall be in compliance with this Policy if consistent with the terms of the easement". Mr. Johnson said when he read that, he thought he was talking about roadside easements that the Township has all over the place like when somebody does a development, the township gets the rights for five feet of the road. Mrs. Yerger said that isn't considered a conservation easement. Mr. Johnson said he didn't say a conservation easement. Mr. Kochanski said we are being all inclusive to the term "easements" so it would apply to every situation and not to just one individual one. Mr. Johnson said when we talk to people who are interested in conservation easements, we've got to know about this. Mr. Kochanski said that's where we clarified it at the bottom, which would be discussion purposes with the landowner if it's consistent with the terms of the easement so that would be something that could be discussed early on. The whole approach to the Pest Management Policy is to use the least harmful approach possible, so avoid using pesticides at all cost. He doesn't know how many landowners are going to object to that type of philosophy. Mr. Johnson said that would include any agricultural that's on easements, any woodland that needs any kind of treatments for pests. He would think those things would be up to the owner to decide whether or not he wanted to do anything and if he was going to do it, he doesn't know if the Township could make him do it according to the ways they want it

done. Mr. Maxfield said the State sprays and doesn't care whose property it is. Someone else might have jurisdiction over that. It is a touchy spot there as technically the person still owns the property, so do we have rights to say. We'd have to include it in the contract, the easement, that language, but does that then give us the responsibility of treating ourselves any existing problem on a piece of property. Mr. Kochanski said he would think that would depend on a site specific situation and on a case-by-case basis and what you are trying to preserve and what the conservation is for, would dictate how you would want to then manage that and include that information in the policy. Mrs. Yerger said that's going to be part of the conservation agreement. That's not going to be a policy that is going to be dictated on a full blown basis. Mr. Maxfield said technically, if the township acquires an easement, it's buying property. Mrs. Yerger said it's not buying property. Mr. Maxfield said you are buying the rights to the property and the rights are considered the property too. Technically, you are making a purchase of some type of property. Mrs. Yerger said she always like to avoid the word "buying" property. You buy rights, but you really don't buy the property as you start talking in terms that you are buying the property. It starts getting really confusing. You are purchasing rights, there's no question. Every piece of property comes with a group of rights. There are all kinds of rights –rights to farm, rights to that, right to this, all kinds of potential rights to a property. She would like to keep it in terms of you are purchasing rights because it starts getting murky when you talk in terms of purchase of buying land because then that becomes very physical. Mr. Maxfield said we have to make sure it's okay with our Solicitor. Legally, we may not be able to change that. We may have to change the wording. Mrs. Yerger said what wording are we talking about? Mr. Maxfield said it was Alan's question, easements, roadside easements, conservations easements. Does that impose some type of responsibility on us? Mr. Kochanski said there's two ways to look at that issue. Does the Township now have a responsibility to manage a situation that may occur on a property where there's a conservation easement or if he's reading Alan correctly, does the Township have any authority to stop a homeowner from using pesticides on the conservation easement. Both of those would be site specific, conservation easement specific items that would not necessarily be covered under a broad policy, but specifically to each conservation easement and it would depend on what the focus of the conservation easement is. If we write in language like this into a conservation easement, then if an owner has cut out a part for his house or something, he can basically follow his normal procedure, but outside of what the conservation easement would be, this policy would apply or would it not necessarily apply only if it was written into that specific language? Mrs. Yerger said where is this word "easement" "written on this page? Mr. Kochanski said page 7, E, "When the Township is granted an easement, the maintenance of the easement shall be in compliance with this Policy if consistent with the terms of the easement". That's where it's getting into "if consistent". No. C also addresses a lease and they were kind of broken out separately, leases from easement in case you were to lease something and you didn't lock it up as a conservation easement. Those are actually more technical legal questions if you have the authority to. We did include the no harm, no foul, no liability, so you aren't required to do this in the case of a conservation easement. You could be held to a standard. Mr. Maxfield said in a way this is really a good idea for the easement properties as often there is water on the properties, riparian corridors, and a lot of people are spraying these days, so it would be good if we can write it in the language. Mrs. Yerger said it has to be consistent with the terms of the easement. Mr. Johnson said we have to discuss that with the people who are interested in doing an easement and make them aware. We have to be able to tell them what the Township really wants to do. Mr. Beardsley said if the easement doesn't address pest control, then they can do whatever they want. If the easement says you have to use these standards in your pest control, then they have to use those standards. Mr. Johnson said the Township has to decide what they want to do. Mr. Kochanski said just because you have a conservation easement doesn't necessarily mean you are going to have to do anything. The first rule of thumb is to maintain it and change of practices so you don't get into using things such as pesticides. It really depends if there is a situation, how do you resolve that situation? Just like any other use of a conservation easement would apply...there are probably rules and regulations you have spelled out on your easements, what a homeowner can and cannot do. This would just be,

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using a general term, “all the rules and regulations of LST”, this once adopted would be part of the rules and regulations. Mr. Johnson said take for instance a farmer, they use insecticides and pesticides and all kinds of chemicals all the time. If we get an easement on a piece of agricultural land, what do we do? Mr. Beardsley said it’s going to permit that. Mr. Johnson said are we going to say the Township won’t tell you what to do, you can do what you want to do? Mr. Beardsley said it’s going to be negotiated with the property owner. If he says can he use DDT, we are going to say no. If you want us to pay you for an easement, you are not going to use this. Mr. Johnson said at least it’s going to be discussed then. Mr. Maxfield said at the same time you may have a farmer who’s going to plow right up to the edge of a stream. The conservation easement, we will need to establish that riparian corridor and keep it that way, continue to plow around it. Mr. Kochanski said some of the basic parameters of this are to use the toxic methods that are available. He’s not saying you can’t use pesticides, but there are other options. In some cases, the use of other options may be less expensive and more beneficial to a farmer. Mr. Maxfield said we can negotiate and come up with a maintenance plan. Mr. Kochanski said one farm may be closer to more environmentally sensitive areas than others. You may want to gear it differently for each piece of property. That’s where this needs to be vague to cover a lot of possibilities versus something site specific that could vary from property to property.

Mr. Johnson said page 3, item B, did you mean alkaline stomachs? Mr. Kochanski said that may be a misprint and he will check on that.

Mr. Maxfield said does anybody know what cholinesterase is? Mr. Kaye said cholinesterase is an enzyme that breaks down in the colon. It interferes with muscle activity or function. Ultimately, they interfere with muscular function.

Mr. Johnson said on page 4, in paragraph N, it referred to 7 U.S.C. 136 and that’s not defined anywhere. Mr. Kochanski said this is in reference to a code 136. There’s several references throughout here where it says CFR and it’s “Code for Federal Regulations”. Mr. Johnson said if that’s a federal regulation, why don’t you put in there defined by federal regulations. Mr. Kochanski said this is Code 136. Mr. Johnson said someone who doesn’t understand all of this, that will make no sense to them. Mrs. Yerger said he wants you to insert “Pesticides are defined by federal code 7 U.S.C. 136”. He wants the word “Federal Code” inserted.

Mr. Johnson said page 6, on C, it is mentioned “Cooperative Extension”, is that the Penn State extension? Should you say that so people know what cooperative extension is? Mrs. Yerger said it can be both. There are multiple cooperative extensions. There’s Penn State and there’s County. Mr. Guerra said it’s all linked through Penn State. Mrs. Yerger said that’s true. You can put “Penn State Cooperative Extensions” as it’s multiple. Mr. Johnson in D, it would you want to stick Open Space in there? Mrs. Yerger said this is more structural. Mr. Kochanski said it was more geared to the building environment. If you were to use a different term for restore, you could add “restoration” in with that group of words at the bottom of page 6. Mrs. Yerger said she’s grappling with the word open space. Mr. Johnson said when we do a development, they always have to give so much open space land, and there’s another open space you might want to say something about. Mr. Kochanski said the landscape is from the organic approach where you are going to be looking at foundation plants, along that nature, so you are not bringing invasives in. You are bringing in plants that are native to the area. That’s where the landscapes are coming from. Certain plants seem to attract certain pests and certain rodents. That’s why the landscapes are in there. Mrs. Yerger said she does like the word “restoration”. Mr. Johnson said this whole section has to do with education and training. Mr. Kochanski said it would be applicable if you were discussing how you are going to be treating the open space, whether it’s through a conservation easement or purchased or donated through the development process. Ultimately, how that open space is treated, whether it’s naturalized, which is the process we are going through with a lot of these areas. Mr. Johnson said maybe you should even define it better and say Township owned open space so we

don't think we are talking about the whole world. Mr. Maxfield said you could say Township conserved areas as that would cover both kinds of open space. If somebody wants to put in a meadow, you have to deal with sprays or if someone wants to get rid of invasives on a conservation property, they are going to have to deal with some kind of spray. Mr. Kochanski said would you consider a development open space conserved land versus a conservation easement. People have different thoughts. Mr. Johnson said it seems what they are talking about here is that people should be educated, people who are doing this for the township, or township employees to review plans and specifications to enhance the use of OPM and IPM procedures. Mrs. Yerger said it's not making it absolute, it's talking about training and enhancing. It's not talking about you must do this every time. Mr. Kochanski said this policy is for township owned lands. We're recommending township residents follow this policy, but this is a directive towards township properties, all township properties. Those were the items, in the next section, we started to talk about where there are easements, but this is geared towards Township owned lands and setting the example followed by the rest of the citizens. Mr. Maxfield said it does say pesticide applicators which could be a business or anything. Mrs. Yerger said this is referring to Township properties. Mr. Maxfield said you may hire an outside firm to do a Township property and they need to be aware. Mr. Guerra said they have to be licensed. Mr. Kochanski said they need to be licensed, but they also need to follow the policies. Mr. Guerra said a lot of Townships you must use native plant material. Mrs. Yerger said we do too with new construction. Mr. Kochanski said under contracts/easements, letter F, the last half of that starting with "All contractors applying for pest management services shall submit a Pest Management Plan, which outlines how they will comply with this policy." Any contractor that is coming on, first of all, they need written authorization to spray on any Township land, and prior to doing that as they enter into the agreement for the contract, they would need to submit the plan on how they are going to address the specific issue. Mr. Beardsley said we could say "properties which the Township has interest" in the legal sense, or the Township has acquired an interest, which makes it less general. Mr. Maxfield said we could say lands that the Township has acquired an interest. Mrs. Yerger said we will be put this in and it will be our recommendations, but will be subject to legal review and will have to go through Council. We are just recommending. Mr. Kochanski said "property that the Township has acquired an interest".

Mr. Johnson said on page 7, item B, it refers to a department. That was defined in the beginning of the document to be any agency or office of the Township. He thought we should identify that it's a department of Lower Saucon Township, just another thing to clear it up.

Mr. Jonson said on page 9, pesticide use, paragraph A, it says this list shall be referred to as the approved products list. He thinks it should be "Approved Use OPM Products List" to make it a little bit clearer. Mr. Kochanski said he doesn't know if these all would be considered organic. We were looking at OPM, IPM and we decided we would create PM, the Pest Management Policy as an all inclusive dealing with both. If we changed it to the Organics Product List, he'd have to go back and make sure it would all be considered organic. Mrs. Yerger said we can't go there because you have an IPM coordinator, so you either have to have it as an IPM or OPM and can't go bouncing back and forth. It will be real confusing. Mr. Johnson said you could say "Approved Use IPM Products List"; the list you are talking about is the list that has been approved for this policy for the IPM policy. Mrs. Yerger said it's already saying that. Mr. Kochanski said maybe with the IPM Coordinator, that is not the appropriate name for them. Maybe it's just the Pest Management Coordinator dealing with the Pest Management policy which deals with OPM/IPM. Maybe to address that issue, we take the IPM Coordinator and change his name to the "Pest Management Coordinator". That was getting into what Mrs. Yerger was getting into about bouncing back and forth between IPM and OPM. We could go through and separate them out, or you just have the approved list. Mrs. Yerger said Alan's suggestion is Integrated Pest Management List. Do we need it to be that? Are we okay with changing everything to Pest Management Coordinator? We are going to change all the "IPM Coordinator" to "Pest Management Coordinator" throughout the document. Mr. Johnson said in the front of the document, you defined

integrated pest management to be a certain type of a management policy. It's a certain kind of a program, so he'd think you would want to call it IPM Coordinator as that's what we're talking about, an IPM program. Mrs. Yerger said this is bouncing back between the two, look at the cover. He really can't be an IPM as he's going to be overseeing this coordinated policy. Mr. Kochanski said on page 6, it should have been clarified to say under "Designation of Integrated Pest Management Coordinator" the second sentence, "the Integrated Pest Management Coordinator will be primarily responsible for implanting the Pest Management Policy and coordinating efforts to adopt the OPM and IPM techniques. Maybe the title is named inappropriately. Instead of the IPM coordinator, it should be Pest Management Coordinator. Mr. Maxfield said if we go back to page 3, G, there's the definition of the IPM Coordinator, so we should just make that the Pest Management Coordinator. Mrs. Yerger said every where you see "IPM Coordinator" change it to "Pest Management Coordinator". It was agreed to "Approved Use Pest Management Products List" where it says "Approved Use Products List".

Mr. Maxfield said this Pest Management Coordinator is obviously going to be an outside firm, it's not going to specifically like the Agronomist? Mr. Kochanski said it could be a Township staff that is set to train. We left some blanks in there. For instance, we had Township Manager or Director of Public Works. That whoever the Township would designate as that person, the responsibilities would fall under him. It doesn't necessarily have to be an outside contractor.

Mr. Johnson said page 13, at the top, it says name of the entity responsible. Would it be clearer to say name of the organization responsible? Mrs. Yerger said it could be an independent person or a sub-contractor, entity is fine.

Mr. Johnson said when you are buying and storing these chemicals, he's imagining that our Township road crew is going to do some of the application, and in some cases, we might hire an outside contractor to do an application. If there's a big hurry for something and you need the chemicals right away, are you going to have a place where you can run and buy them, or are you going to have to store some on site so you have them quickly? Mr. Guerra said there are very specific rules and regulations on how you store any kind of chemical in the business entity. You have to have well ventilated storage facilities. Mr. Johnson said are you saying the Township probably wouldn't be able to store any of these things on site, they'd have to run out and buy it? Mr. Guerra said they could, but they'd have to be licensed to be able to store them. Mr. Kochanski said you need to be licensed to apply it. Mr. Guerra said that's two different licenses. The business has to have a license and the applicator has to have a separate license. Mr. Kochanski said there are two things in here to address that. Under page 13, purchase of pesticides, you are only looking at what you are anticipating using for the year so that you don't get into this long term storage of chemicals. Mr. Johnson said that could be quite a quantity. Mr. Maxfield said there are probably state and federal regulations. Mr. Guerra said it has to be certain distances from where people work. It takes the liability off of the Township. Mr. Kochanski said there is something in here about the storage and disposal of pesticides and it needed to be done in accordance with local and state regulations. There are provisions in here for emergency situations like if something threatens the health and welfare, and there are reports for that. On page 7, under applications, it says "applicators must follow regulations and label precautions/instructions on proper application' spill response; cleaning and calibration of equipment; and storage and disposal". That was something that came up when we were developing this, what happens as you adopt this and you have certain chemicals that wouldn't necessarily be permitted under this policy, so that was something we wanted to deal with. Mr. Johnson said this could be a considerable effort or burden on the Township if they decide they want to store some chemicals around here for instantaneous use. Mr. Maxfield said his vote would be for an outside firm. Mrs. Yerger said she would think most of this is going to be done by a contract firm. She can't imagine the Township staff taking this on. She doesn't imagine it's going to be a huge issue. Obviously, if they decide to do it with Township staff, that's going to be something that will have to be addressed. Mr. Guerra said as a

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contractor, they do a lot of contracting, and regarding the chemical aspect, it takes a lot of the liability off of their company.

Mrs. Yerger said we don't have to see it again, as there aren't that many changes. Mr. Kochanski said he can get this wrapped up very quickly.

In summary, the following changes were made:

1. Page 3 – Definition of Bt – check to see if the word alkaling should be changed to alkaline.
2. Page 3 – Definition of Organophosphates – the term cholinesterase should be defined for clarity.
3. Page 4 – Definition of Organic Pest Management – the reference to 7 U.S.C. 136 should be clarified.
4. Page 6 – Item B – the reference of Cooperative Extension should be changed to Penn State Cooperative Extensions.
5. Page 6 – Item D should be updated to include modification/repair/replacement/construction/**restoration** of new buildings, landscapes, **properties that the Township has acquired an interest in**, roads, drainage structures/systems with the objective of minimizing pest problems.
6. Page 7 – Item B – add the phrase “of Lower Saucon Township” after the word department.
7. Page 9 – Item A – the list of approved pesticides shall be referred to as Approved Use Pest Management Products List.
8. All references to IPM Coordinator should be changed to Pest Management Coordinator.

MOTION BY: Ms. Ray moved that the Draft Pest Management Policy be approved subject to the changes stated above.

SECOND BY: Ms. Tokura

ROLL CALL: 5-0 (Absent: Mr. Hijazi)

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

Mrs. Yerger said Mr. McCormick is not here tonight, so this will be tabled.

D. FLOWCHART DISCUSSION

Mrs. Yerger said this was done based on the discussion from last month's meeting. We talked about revising this. This is only for the first section until we get up to the appraisal process and the Township. She said she has a problem with the “second letter”. She asked what should that be called? We need to come up with a better title for it instead of the second letter. After considerable discussion, the group came up with “detailed application letter”.

Ms. Tokura said to make it easier to read and make it clearer, you could group the steps together and have a first part, a second part and so on, more like an outline. There would be four major steps.

Mr. Johnson said we wanted to make this flowchart very detailed so we know exactly how the steps follow each other. That's why there are so many boxes. Mrs. Yerger said just because it's in the flowchart exactly like this, it's not always going to take place like that. She wanted it detailed, but not to the point that this is what we are going to have every time, as it may not work like that every time. Mr. Johnson said there should be some way to show in a flow chart every possible thing that might happen. Isn't that why we were doing this as staff wanted to know exactly what the procedure was? Mr. Kaye said did they want a basic guideline or did they want it totally exhaustive? Mrs. Yerger said she thinks they wanted a basic outline and some basic steps that

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every property would have to go through, not that there wouldn't be some flexibility in it, depending on the property. The OSC could meet with the landowners twenty-six times. She wasn't going to list all that. Mr. Kaye said it's a basic guideline but not meant to exhaust every scenario. Mrs. Yerger said correct.

Mr. Kochanski said if it scores good, you go down. If it scores bad, you go to the right to the red box. Discussion centered around where the red boxes, arrows, "GO" and "NO GO" should properly be placed. Mrs. Yerger said if it's a GO, you go to the next box. If it's a NO GO, you go over to the red box. She's just trying to get a base working flowchart right now. A huge step is we are beginning this process, you, the landowner and Council through this application process and gaining all the information we now need to make a decision.

Mr. Vanscavish, resident, said what you are trying to do is to set yourself a baseline, trying to keep it simple as possible. For the homeowner, he can look at this and know what's going on. It can be used as a quick reference chart, what submission he has to make, and when he has to make it. He would then know where he stands and where we are in the process.

Mrs. Yerger said the following are changes: "detailed application letter" instead of the second letter. TY is "thank you interest letter". Some of the red boxes have to move up a little bit. Title the columns "GO" and "NO GO". The third red box needs to read as the same as the first and second box.

MOTION BY: Mr. Kaye moved that the Open Space Flowchart be approved subject to the changes discussed during the meeting.

SECOND BY: Mr. Maxfield

ROLL CALL: 5-0 (Absent: Mr. Hijazi)

V. UPDATES/REPORTS

A. OPEN SPACE SUB-COMMITTEE

1. Property Updates

- a. **Rodney Vanscavish** – Mr. Beardsley said there's been an appraisal of his property. Town Council is meeting tomorrow night and will decide what to do about proceeding, but the adjoining property, if he wants to buy, needs to get appraised. We, as an EAC recommended it before. Now we need to get the appraisal going and since he doesn't own the property, this is an issue. Can we order an appraisal? Mrs. Yerger said we will double check with our Solicitor. The preliminary discussion was probably not. Mr. Beardsley said the property that was acquired from Noble, they didn't own the property, how did we appraise that one? Mrs. Yerger said it was already appraised. Mr. Beardsley said Rodney offered to pay and get his own appraisal, and it was turned down. Mr. Vanscavish said you use Indian Valley. Mrs. Yerger said that's not a problem, we've used other appraisal companies. Indian Valley is very responsible. That's one of the reasons we use them. Mr. Beardsley said you are saying you'll accept a property owner's appraisal of the value of their conservation easement. Mr. Maxfield said on Noble's property, we had two appraisals and one of them was their own and the other was the Township's. Mr. Beardsley said did you get that appraisal prior to Noble owning the property? Mr. Maxfield said yes. We got permission from Caruso to do it. Mr. Beardsley said Vanscavish has the property under contract, so he shouldn't have to ask to get an appraisal on it as he's going to buy it. That appraisal has to be to our standards and has to address the conservation value. Mrs. Yerger said right. Mr. Beardsley said we can order an appraisal on property that he has under contract, and determine its conservation value. Mr.

Maxfield said it would have to be ordered through us. Mr. Vanscavish went to Indian Valley, but the appraiser said this could be a conflict with his company as he does work for LST. He needs to talk to the Solicitor. His concern is if he goes and hires an outside entity, gets his appraisal and brings it back to you, and Council says this is fine and dandy, but it doesn't meet our standards. Now he's gone out, paid for an appraisal and it doesn't meet standards. Mr. Beardsley said Rodney has already offered to pay for the appraisal with the understanding that if he sells us a conservation easement, he would get reimbursed. Mrs. Yerger said we have that recommendation from this body to Council. Now that we've thrown that other caveat in there as far as the standards, she's not sure what to tell him. She understands his concerns and it's justifiable. Mr. Beardsley said he's got the property under contract and he's sure the sellers will agree. Mrs. Yerger said he's got to realize that just because it's appraised at that from his appraisal company doesn't mean that's what we are going to pay. Mr. Maxfield said it might be cleanest if the Township gave permission to get it appraised and the Township pay for it. There wouldn't be any questions. Mr. Beardsley said he wants to see this move forward. Mr. Vanscavish said he's hoping tomorrow night there will be some kind of decision as to where we are going to go. That will take place in Executive Session. Mrs. Yerger said if a decision is made, we announce it publicly. Mr. Vanscavish said if a decision isn't made, that is going to be a big conflict for himself. He'd like to continue to move forward with the purchase of his property and get monies to purchase the other property. Mr. Beardsley said if he buys the other property and we do conservation on that, he's going to use that money as part of the purchase. Mr. Vanscavish said if you get this through the pipeline, he can get it expedited and work on the other property. Once he gets this moving, he'll get the appraisal on the other land. His biggest concern is paying for the appraisal.

Mr. Maxfield asked Mr. Beardsley if he would like to come to the Executive Session tomorrow evening as the Council and staff will be talking about Vanscavish. Mr. Beardsley said he can make the meeting. Mr. Johnson said he can also make the meeting. Mr. Maxfield said he thought they might want to come as other Council members might have questions also. Mr. Kochanski said if the concern is whether or not the second appraisal company, which standards they would use, couldn't we contact Indian Valley and find out what standards they use and assure that the second appraisal company follow those standards. Mr. Beardsley said if the Township orders the appraisal, they can order it from Indian Valley. Mr. Kochanski said if that's going to be an issue and the property owner wanted to move ahead with his own appraisal and he hired his own appraisal company, couldn't the two appraisal companies talk to find out what standards are being used for Township appraisals so the second company follows those appraisals? Mr. Beardsley said they pretty much use the same standards. The conflict is that if he came to you and said he wants to sell you a car and had it appraised by his appraiser, and he said it's worth \$5,000, so you have to buy it for \$5,000, and you go, wait a minute, I'm going to go and get my own appraisal. An appraisal that Rodney has gotten done on his property and wants to get a conservation easement on, the Township might say, we want to get our own appraisal because we don't know how much influence you have over the appraiser. Mr. Kochanski said sure, that's that doubt that it's a legitimate appraisal. Mr. Beardsley said there may be a legal question about the property. Mr. Maxfield said what happened with Noble is that the appraisal we used from them had been done before the process started, so they didn't have anything to compete against. It was existent. Mr. Beardsley said he will certainly come tomorrow night. Mr. Maxfield said it would be fair to move this along and make the recommendation in Executive Session for the Township to pursue. Mr. Beardsley said that's the easiest way to do it. Mr. Maxfield said then we'll see what happens from there. Mr. Vanscavish said he will also be at the meeting tomorrow night. He'd like to secure his finances up by October 9. He asked if the Township would make known what the dollars anticipated are? Mrs. Yerger said not necessarily. It might just be that they will authorize

an entity to negotiate with you. Mr. Maxfield said because the appraisal is authorized through the Executive Session process, it's not really a public document of any kind. Some Township's will release it. We've released a couple in the past, but not necessarily. Mrs. Yerger said they may just have an entity, open dialogue with you as far as dollars. The agency would probably contact you and that would probably be announced. For example, if we would direct our Solicitor to negotiate with you or contact you to discuss the actual purchase price, that would be announced, but the actual purchase price would not be discussed because it would be a negotiation. She would hope our Solicitor would pick up the phone and call Mr. Vanscavish in a couple of days. Mr. Maxfield said our Township only meets every two weeks. Mr. Vanscavish said this will help him as he'll find out tomorrow night what's going on and can move along. Mrs. Yerger said hopefully you'll get some direction on which way it is moving on.

- b. **Lou Bilous** - Mr. Beardsley said the letter we've sent, the "second" letter, we've got two responses. One is from Willie Shelly and one from Len Bilous. Len's came today. Mr. Beardsley's question is, does the Open Space Sub-Committee review these answers to the questions and then make a recommendation based on that? Mr. Kochanski said if there's a landowner response, a box should go in the flowchart that the OSC reviews. To the right, no, down to the Open Space. You need to review those responses from that letter and then you make that decision from that. Mr. Maxfield said or the entire EAC can talk about it at a meeting. Mr. Beardsley said that might be a better idea as the OSC can't have enough meetings. He has copies of the Bilous response in front of him. Mr. Bilous has written a narrative. He's given us a summary of conservation easement restrictions that he would like. He's given us maps. Mr. Beardsley's problem is we haven't had a chance to look at this yet. We don't meet for another month. Do you know the timing to apply for the County and what is going to happen if we don't take action on this tonight? Mrs. Yerger said if he wants to apply to the County, you need to talk tomorrow night about this at the Executive Session. We can call an extra session of the EAC if we publicize it. We could decide it at Executive Session tomorrow night and Council could direct the EAC to have a special session. She doesn't even know if we can even get this all together in time because Mr. Bilous needs an appraisal also.

Ms. Ray asked what is the deadline for the County? Mrs. Yerger said September 30. Ms. Ray said is there any chance of all of this happening in that time? Mrs. Yerger said she doesn't think so, but that's just her opinion. Mr. Beardsley said Mr. Bilous has two different scenarios of how much land he wants to put in an easement. Mr. Johnson said he hasn't really even made a decision himself yet. Mr. Beardsley said it's got to be reviewed. Drew Gilchrist was hoping we would take some action tonight. Mrs. Yerger said she doesn't see how we can do that this evening. She doesn't even know if you can get an appraisal done in time. At this point, we can't make any recommendation as an EAC because you haven't seen it, and we don't have the full OSC here tonight. Unfortunately, we can't take any action this evening. Mr. Maxfield said all we can do is make a recommendation to Council. Mr. Beardsley said the OSC will review it and have a recommendation at the next meeting. He will email the file to the EAC members. Mrs. Yerger said we can bring it up in Executive Session tomorrow night about having a special meeting, and see what happens. The County needs the application by September 30. If you tell them the appraisal is on its way, they might honor it. That still is not going to solve the problem of us going through our flowchart. Mr. Beardsley said they will accept the application, but won't move on it until they have the appraisal. Mrs. Yerger said at this point we are guessing at a lot of things, so she doesn't want to make any recommendations. There is a Spring round of County money and Mr. Bilous is just going to have to wait for that. Hopefully there is money left. Mr. Beardsley said he will report to Drew Gilchrist that there is not enough time and they do not have enough information. There has to be

discussion on how much land is going to be there and we can't address the idea of putting a soccer field there anyway.

- c. **Willie Shelly** – Mr. Beardsley said he has Willie Shelly's answers to his questions. There is a letter from Mr. Shelly in everybody's packet.

Mr. Maxfield said what's our next step with Bilous? Mrs. Yerger said Mr. Beardsley is going to contact Drew Gilchrist and tell him that we couldn't make a decision. We need to discuss it at the next EAC meeting and then decide what we are going to do. Mr. Beardsley said we have to have a meeting with Len Bilous. He can have Drew Gilchrist come in and do a presentation.

Mr. Vanscavish said with his property, did you guys ever consider asking the County for a match? Mrs. Yerger said what we submit to the County for a match is usually the dark green areas which they fund. She's not sure his property fell into that category. Anything out of the first priority they will not fund it or they rarely fund it. It's the dark green areas that they are after.

B. THIRD LEHIGH VALLEY WATERSHED CONFERENCE – DESALES UNIVERSITY – OCTOBER 9, 2009

Mrs. Yerger said this is just an FYI. If you want to go, let Jack Cahalan know if you are interested.

C. CEREMONY FOR VOLUNTEERS OF NATIVE PLANT GARDEN – OCTOBER 6, 2009 AT 6:30 PM

Mrs. Yerger said the Girl Scouts have finished the Native Plant Garden. The Township would like to have a small ceremony right before our next meeting on October 6 at 6:30 PM. Certificates are going to be handed out for the volunteers. They worked really hard and did a great job. Let Diane know if you'll be attending.

D. SIGNAGE FOR POLK VALLEY PARK

Mrs. Yerger said Justin DeLade is going to do the signage for the Polk Valley Park in the naturalized area. He sent in pictures today. It's the loop trail and some of it couldn't be printed. There is no text with it. They are really nice pictures, but we can't make a recommendation as we don't have any of the text that went with it.

E. COMPUTER ELECTRONIC RECYCLING EVENT

Mrs. Yerger said this will take place on Saturday, October 10, 2009 from 9 AM to noon. If you can help out that day, please let her know. Mr. Maxfield said that is the same day Northampton Community College is doing their hazardous waste collection in the Community College parking lot. Mrs. Yerger said TV's, dehumidifiers, stereo speakers, air conditioners, kitchen appliances are not accepted.

VI. TERRY BOOS – HELLERTOWN REPRESENTATIVE – REPORT – Nothing

VII. NON-AGENDA ITEMS

- Ms. Laura Ray said she's working on renovating her farmhouse and she's pretty sure she's going with heat pump with geothermal. In doing that, she had to review our regulations and they are extremely, overly restrictive. She doesn't know what a lot of it is based on. She'd like to see some of that reviewed. One is they totally do not allow open loop whatsoever, in no way, shape or form

anywhere. With the vertical versus horizontal, she knows we were concerned about the chemicals that get put in. It can be done with water only, but that is not addressed in our regulations. With vertical boreholes, we have no restrictions on digging a well. You can put the geothermal in the well when you are doing your water as well. She'd like to see our regulations looked at from an environmental standpoint. Mr. Maxfield said there was a lot of discussion on that. Ms. Ray said we changed that in 2005 when that person from Polk Valley came in. A lot of it is centered around the chemical, what if that chemical leaks out. You can do these systems with water only. Mr. Maxfield said the initial talks were done in 2000. Ms. Ray said technology has changed. She doesn't know if they had full information. The knowledge on the open loop system is not widespread. Not very many installers install those systems as they don't know how and it's easier to do it the other way, but the open loop system is more efficient. With her having to go horizontal, if she does it with the non-slinky loop, she has to dig up 310 feet of trenches, and that's totally allowed. That's bigger than a football field. She can have trenches that big to put in these pipes, which to her is more disruptive than drilling a well. There are a lot of limitations and restrictions. She needs heat by winter, so she has to do what our regulations say. They are overly restrictive. Mr. Maxfield said a lot of the systems so far that have been proposed have been in the watershed protection area, which Ms. Ray is also in. The potential for a vertical system going down and penetrating the aquifer, would be affected if there was any type of leakage. It would affect the Saucon Creek watershed and Cooks Creek watershed. Ms. Ray said what if you are doing a "water only" system. Mr. Maxfield said there was a discussion about the "water only" system and there is no guarantee that any time in the future, a future homeowner, whoever couldn't switch that system over to some other kind of chemistry. Ms. Ray said you could have it as a regulation that you couldn't switch it over. Mr. Maxfield said that was the other discussion – who is going to go and check and make sure you are running that water instead of propylene glycolate. Mrs. Yerger said what's the advantage of using the propylene? Mr. Kaye said it doesn't freeze. Ms. Ray said if you properly size the system, the water won't freeze as it doesn't freeze under the ground. That's why you are using geothermal as it's 50 degrees. Mr. Maxfield said the big concern is the potential for pollution, the vast amounts of carbonate areas we have in the Township, and the protection of the watershed. There were also proposals to put in vertical pipes with shielding on them, but part of the problem is, in carbonate, where it goes down and hits a void and the pipes don't have support. There are all kinds of problematic things that occur. They talked about taking the safe route which is to not allow these things. Ms. Ray said you dig wells, and any junk can go in anybody's well anywhere. Mr. Maxfield said the main function of that is drawing water out of the aquifer. Open loop is supposed to be more easily polluted. Ms. Ray said it doesn't get exposed. Mr. Maxfield said you should probably talk to someone from Hanover. Ms. Ray said she would like to see our regulations reviewed. It's very restrictive, in general, and it's the heat of the future. It's the most efficient thing going. Mrs. Yerger said one of the things that is going to also come up is for wind. We'll have pros and cons with both the wind and the geothermal. Ms. Ray said she needs to move forward and can't wait three years for things to happen. She's just making the suggestion as technology maybe has changed or maybe not everything was considered. The more she learns about it the more she thinks it's the right way to go. They use these systems all over the place like in cities. They bury the pipes all over the place. Mr. Johnson said they don't drink their ground water in the cities, so they don't care what they do to the groundwater. Mrs. Yerger said we can make a recommendation. Mr. Maxfield said let's go back and review the discussions that have occurred already and see if some of the questions are answered. Mrs. Yerger said let's gather the information for the EAC on what's on the books already. Ms. Ray said the code doesn't have a lot of explanation. It tells you what you can do and what you can't do. Mr. Johnson said we should see the code also. Mrs. Yerger said we'll make sure you have the discussion and the pros and cons and why it was decided, what was decided. We can then move forward investigating or having staff relook at it. We might be more productive then. Ms. Ray said there is a total "no" on open loop for any situation. Mr. Maxfield said it initially came up in 1999 or 2000 when Joe Colosi was on Council. We had one or two people after that. The minutes of the meetings could help.

Environmental Advisory Council
September 1, 2009

Mr. Maxfield said Four Seasons is looking into a windmill. Chris Garges is looking into it. Wind is going to be a big thing of the future. It's free. We are getting in applications for windmills. Mr. Johnson said windmills make a lot of noise. They are working on trying to decrease the amount of noise they make. Mrs. Yerger said have they addressed the wildlife issues on them also? Mr. Maxfield said they are working towards slower blades. Mr. Johnson said he wouldn't want it right next to his house if it made that much noise. Mrs. Yerger said there are people fighting it because of the tremendous toll on wildlife. Mr. Maxfield said currently on our ordinance, we are able to have them in the bigger zones of RA and R8, maximum height of 50'. Mr. Johnson said you have to get them up high enough so they are above the trees because you have to have them in air that is not disturbed.

Mr. Kochanski said they have been gathering information for staff, so Chris Garges has information on a draft ordinance that they've prepared for another township. Chris is still gathering some more information. Another issue is not just noise, but also flicker from when the sun comes through and you get that strobing affect, and it has caused seizures. Depending on the intensity of the light coming through and the speed on which it is moving, there is a lot of studies going on. The color of the windmill – darker colors tend to hold more heat. There was discussion of the wildlife kill. That is in the works. Mr. Maxfield said one of his dreams of the future is having a windmill farm up at the top of the landfill. Mr. Kochanski said you typically need to be in a certain region to have the efficiency and there are wind maps available. Generally, this portion of the state is not in a viable area. Mr. Maxfield said there are smaller companies doing smaller windmills. Mr. Johnson said if you have to have a good foundation, he doesn't know if the landfill is a good place. You have to find solid rock up there. Mr. Maxfield said on the top, you don't have any liners at all. Mrs. Yerger said they will get information from staff and start looking at this.

MOTION BY: Mr. Maxfield moved that the Township gather, for EAC to review, the statues regulating geothermal heat pumps and the decisions and discussions that occurred in the passing of the current regulations.

SECOND BY: Ms. Ray

ROLL CALL: 5-0 (Absent: Mr. Hijazi)

VIII. ADJOURNMENT

MOTION BY: Mr. Beardsley moved for adjournment. The time was 9:50 PM.

SECOND BY: Mr. Maxfield

ROLL CALL: 5-0 (Absent: Mr. Hijazi)