I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, January 18, 2006, 7:04 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

ROLL CALL: Present – Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Sandra Yerger and Ron Horiszny, Council Members; Jack Cahalan, Township Manager; Jim Birdsall, Township Engineer; Township Solicitor, Linc Treadwell; and Jaclyn Rasich, Jr. Council person.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

Mr. Kern said Council met in Executive Session prior to tonight's meeting to discuss personnel issues.

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

Mr. Kern said for citizen agenda items – Council operates under Robert's Rules. What that means is during agenda items, Council will talk amongst themselves and amongst staff and the interested parties. At the conclusion of that, we open it up to the public for public comment. There is an opportunity for non-agenda items at the end of the meeting to discuss whatever your business might be. We do have a microphone and there are microphones up at the table. There is a sign-in sheet in the back of the room. Please print your name and address and email address. It is very helpful in transcribing the minutes. For those who want to receive emailed agendas, please give your email address to Diane, Leslie, or Jack or call the Township office. Please state your name and address. If you can't hear, please let us know. Mr. Kern asked if anything was taken off the agenda this evening? Mr. Cahalan said no.

III. PRESENTATIONS/HEARINGS

A. RESOLUTION #23-2006 – HONORING PRISCILLA DELEON FOR RECEIVING AWARD FROM HELLERTOWN LOWER SAUCON CHAMBER OF COMMERCE FOR OUTSTANDING SERVICE

Mr. Kern said resolution 23-2006 has been prepared honoring Priscilla deLeon for her dedicated service to the community. She is being honored at the Chamber banquet on January 28, 2006.

RESOLUTION #23-2006

A RESOLUTION RECOGNIZING THE DEDICATION AND SERVICE OF COUNCIL MEMBER PRISCILLA deLEON

WHEREAS, Priscilla deLeon has faithfully served the residents of Lower Saucon Township in various capacities for the past eighteen (18) years; and

WHEREAS, Ms. deLeon, after moving to the Steel City area of the township with her husband, Leon, in 1985 and becoming involved in the Steel City Fire Company and an anti-quarry committee, ran successfully for a Township Council seat; and

WHEREAS, after her election to the Township Council in 1988, Ms. deLeon was re-elected by township voters to four (4) more terms as a council member and is currently serving her eighteenth (18) year on the Township Council. During the years 1994, 1995, 2000, 2001, 2002, 2003, 2004 and 2005 Ms. deLeon served as the Council President; and

WHEREAS, during her service to the township Ms. deLeon has served community organizations such as the Saucon Valley Conservancy, the Lower Saucon Township Historical Society, the Saucon Valley Partnership, and in 2005 was appointed to the Board of Directors for the Hellertown-Lower Saucon Chamber of Commerce; and

WHEREAS, Ms. deLeon has played an integral role in preserving the historic resources of the Saucon Valley through her efforts supporting the Delaware & Lehigh National Heritage Corridor, the Ehrhart's Mill Historic District/Old Mill Bridge, the Redington Historic District, the Michael Heller Homestead and the Lutz-Franklin Schoolhouse; and

WHEREAS, Ms. deLeon has most recently spearheaded efforts through the Steel City Task Force to work with PennDOT to repair and re-open the Narrows section of Riverside Drive which has been closed since the Hurricane Ivan storm in September 2004.

NOW, **THEREFORE, BE IT RESOLVED,** that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; does hereby declare the week of January 29, 2006 as Priscilla deLeon week and do hereby commend and urge all residents to commend Priscilla deLeon for her long service and dedication to Lower Saucon Township.

MOTION BY: Mr. Horiszny moved for approval of Resolution #23-2006.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Mrs. deLeon said one person does not do everything in government. It takes a team of professionals to do things and she's proud to sit up here with everyone. Our forefathers knew what they were doing when they wrote the rules of how government is supposed to operate because it's a check and balance in government. It's a hard role to distinguish between the elected board and the administration because you just have to ask questions and sometimes you're not asking questions because you want to be mean, but that's your role, and you have to exercise that. It's wonderful sitting up here, and she's glad she's having a week dedicated to her.

B. <u>RESOLUTION #24-2006 – THANKING CHRIS CUMMINGS FOR DONATION OF TREES</u>

Mr. Kern said Resolution #24-2006 has been prepared thanking Chris Cummings for his kind donation of trees.

RESOLUTION #24-2006
RESOLUTION THANKING CHRIS CUMMINGS

WHEREAS, Chris Cummings is the owner of the Springfield Tree Farm, a tree farm business located in Springtown, Pennsylvania that has been in business for six years; and

WHEREAS, Chris Cummings has generously donated twenty-two (22) Golden Willows and thirty-eight (38) American Sycamore trees to the Heritage Conservancy for Lower Saucon Township; and

WHEREAS, the donation of these native trees will enable the Township, under the direction of its Environmental Advisory Council, to plant the trees as riparian buffers along the Saucon Creek, Polk Valley Run, and along other waterways in the township in need of such plantings; and

WHEREAS, a portion of these trees will also be planted at Polk Valley Park, a 47-acre active and passive recreation area to be opened in the township in 2008; and

WHEREAS, these trees will serve to protect township waterways from erosion and pollution, provide habitats for wildlife, and will offer many years of shade and beauty for township residents to enjoy; and

NOW, **THEREFORE, BE IT RESOLVED,** that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; wishes to acknowledge this donation and recognize Chris Cummings for his generosity and dedication to the goal of preserving and protecting the environment of Lower Saucon Township.

MOTION BY: Mr. Horiszny moved for approval of Resolution #24-2006.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

C. <u>RESOLUTION #25-2006 – THANKING HERITAGE CONSERVANY FOR DONATION OF TREES</u>

Mr. Kern said Resolution #25-2006 has been prepared thanking the Heritage Conservancy for their thoughtfulness in donating trees to Lower Saucon Township.

RESOLUTION #25-2006
RESOLUTION THANKING HERITAGE CONSERVANCY

WHEREAS, the Heritage Conservancy was the recipient of approximately sixty (60) native trees from the Springfield Tree Farm in Springtown, Pennsylvania and generously donated them to Lower Saucon Township; and

WHEREAS, this donation of native Golden Willow and American Sycamore trees will enable the Township, under the direction of its Environmental Advisory Council, to plant the trees as riparian buffers along the Saucon Creek, Polk Valley Run, and along other waterways in the township in need of such plantings; and

WHEREAS, a portion of these trees will also be planted at Polk Valley Park, a 47-acre active and passive recreation area to be opened in the township in 2008 and in other township park areas; and

WHEREAS, these trees will serve to protect township waterways from erosion and pollution, provide habitats for wildlife, and will offer many years of shade and beauty for township residents to enjoy; and

NOW, **THEREFORE, BE IT RESOLVED,** that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; wishes to acknowledge this donation and thank the Heritage Conservancy for their leadership and dedication to the preservation and protection of land and water resources in the Saucon Valley.

MOTION BY: Mr. Maxfield moved for approval of Resolution #25-2006.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

D. RESOLUTION #26-2006 – HONORING MARTHA CHASE UPON HER RETIREMENT

Mr. Kern said Resolution #26-2006 has been prepared honoring Martha Chase on her retirement and her 29 years of service with Lower Saucon Township.

RESOLUTION #26-2006
PROCLAMATION HONORING MARTHA CHASE UPON HER RETIREMENT

WHEREAS, Martha Chase began her employment with Lower Saucon Township on November 1, 1976, initially working as a clerk-typist in the Administration Office; and

WHEREAS, Martha moved to the Finance Office in 1977 and was promoted to Financial Assistant in 1985; and

WHEREAS, in 1987, Martha was appointed to the position of Township Accountant and was given responsibility for overseeing the township accounting and budgeting systems, collecting taxes, and handling the township payroll; and

WHEREAS, during Martha's 29 years of employment with the township she has always carried out her duties and responsibilities with the utmost prudence and dedication which has ensured the integrity of township funds and financial transactions; and

NOW, THEREFORE, the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Tom Maxfield; Sandy Yerger; and Ron Horiszny does hereby declare the week of January 23, 2006 as Martha Chase week and does hereby urge all residents to commend Martha for her dedication to the Township.

MOTION BY: Mr. Maxfield moved for approval of Resolution #26-2006.
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

E. RESOLUTION #27-2006 – SUPPORTING SPRINGTOWN SOURCEWATER PROTECTION PLAN

Mr. Kern said Resolution #27-2006 has been prepared supporting the Springtown Sourcewater Protection Plan in Springfield Township.

RESOLUTION #27-2006
RESOLUTION SUPPORTING THE SPRINGTOWN SOURCE WATER PROTECTION PLAN

WHEREAS, Springfield Township initiated a wellhead protection program for the water supply for the village of Springtown and formed a Wellhead Protection Steering Committee to allow local and regional stakeholder input for the source water protection plan; and

WHEREAS, the Wellhead Protection Steering Committee, supported by grant funds from the PA DEP, worked with a consultant to produce the Springtown Source Water Protection Plan; and

WHEREAS, the goal of the wellhead protection program is the creation of a management plan that addresses specific concerns and potential threats to the quality and quantity of the public water supply; and

WHEREAS, a portion of the Springtown source water protection area lies within Lower Saucon Township, and

WHEREAS, the Source Water Protection Area Management Plan contains recommendations encouraging Springfield and Lower Saucon Townships to adopt groundwater protection ordinances and implement education and management programs that will ensure the present and future protection of these water sources, and

WHEREAS, these recommendations have been reviewed by the Township Environmental Advisory Council and township consultants who have recommended their support, and

NOW, **THEREFORE, BE IT RESOLVED,** that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; hereby supports the recommendations contained in this report and wishes to acknowledge the work performed by the Wellhead Protection Steering Committee, the Springfield Township Environmental Advisory Council and the Springfield Township Board of Supervisors in preparing this report.

MOTION BY: Mrs. deLeon moved for approval of Resolution #27-2006, with the addition of names of Council by "NOW, THERFORE, IT BE RESOLVED"
Mrs. Yerger said our planner, Judy, has included a few additions and amendments to it. Does that have any bearing on the resolution or should we just leave it as a general resolution and pass them on? Mr. Cahalan said we can pass them on in a letter. Mrs. Yerger said a few of them have some real merit. Mr. Cahalan said we'll do that.

SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

IV. DEVELOPER ITEMS

A. ZONING HEARING BOARD VARIANCE REQUEST – TOMASZ & ANNA NIEWIAROWSKI – 1767 WYNDHAM TERRACE – REQUEST VARIANCES TO CONSTRUCT FENCE IN FRONT YARD SETBACK AND REAR YARD EASEMENT & HEIGHT RESTRICTIONS

Mr. Kern said the applicant is proposing to construct a decorative fence in the front yard and a "deer fence" along the side and rear property lines. The proposal will encroach in the front yard approximately 32.5 feet leaving 17.5 feet at the closest point.

Mr. Kern asked if someone was present representing the applicant? Chris Chinnici, the builder was present. Tomasz and Anna Niewiarowki are also present. Mr. Chinnici said they are seeking Council's approval for a variance. They are withdrawing their request for a variance to build a fence through the drainage easement and they are also withdrawing their request for a variance for the maximum height restriction. They are going to request a variance to build a structure in the front yard setback, and what they are doing is, since they know there is opposition to the fencing, they are reworking the plan to incorporate plantings and shrubbery. They would like to build piers

with a gate in the front by the driveway, but they are, at this point, not going to build the fence to the extent that is on the plan that was submitted. They are looking for a way to have an open dialogue and work something out with everybody involved.

Mrs. Anna Niewiarowski said she apologizes that she heard that they didn't inform everyone of what they are intended to do. That was not their intention. They really wanted everyone to know. The plans came up the last minute the last week of November. They didn't realize they couldn't build the structure, so this was something they unfortunately missed during the building process. The second point is the character of the house which requires some sort of gate and they would like to hide the trash and put some shrubs there. If someone doesn't like to see the gate, she'd like to hide it with anything possible in a green material. She would like to work with the neighbors. She doesn't want to fight. They would like to have a fence, as they'd like to have extensive gardening. Those young plants would be eaten immediately by animals. The fence would serve the purpose of protecting the garden and whatever is inside. The third point is they are both physicians and they see people getting lyme disease. She has children and she doesn't want them to have a tick every single night, she'd rather have one tick a year. That's the rationale.

Mr. Chinnici said with that being said, they'd like to get the neighbors feelings with their reworked plan. Mr. Horiszny said did you say the piers were only going to be at the gate? Mr. Chinnici showed the plans of where things were going to be. Mrs. deLeon said when they were here before, some issues were raised about the adequacy of the list of owners that were notified. We got a letter from the Novak's that they weren't notified. Attorney Treadwell said anytime there is a proposed zoning hearing, the adjacent properties get notified. He doesn't know specifically what happened in this case. Mrs. deLeon said the applicant fills out a zoning hearing board application and it's their responsibility to send notices to whatever the radius is. Attorney Treadwell said they provide the addresses and the township sends the notice. Mr. Cahalan said the applicant does it. That was changed. Mr. Maxfield said there should be postings in the neighborhood also. Mrs. deLeon said her question is we're a township council, we look at these issues to either oppose, support or take no action. If these residents have issues that they weren't notified, that's not our responsibility. That's an issue at the ZHB level. Attorney Treadwell said that was correct. Mrs. deLeon said, so what do we do? Attorney Treadwell said Leslie went to go and check and see who was notified.

David Gill, resident, said the fact that they weren't notified, formally, doesn't obviously mean we weren't notified at all. At least one of us was notified and that individual shared with others who shared with others and the news circulated, so informally as it might have been, we are all aware now. He will speak for himself, but he and his wife have purchased land in this particular area because of its rural environment. They really cherish that type of environment. It's not necessary to elaborate on the value of the land in this particular area. They'd rather try to keep it that way. He'll acknowledge that the township has no obligation to uphold restrictions and covenants that were made part of the deed, but please bear in mind, we bought these properties for such protections because we don't want to have cars sitting around, we don't want to have fences, we want garbage in enclosures and all those things are spelled out in those covenants. We accept it with eyes full open. You have no obligation to enforce those, we don't expect you to. We understand you are really working within the bounds of zoning. He's a little confused on the role of this board as opposed to or in conjunction with the zoning. He doesn't know a lot about how townships work, but he understands the zoning aspects the ZHB can deal with. In addition to that, there are the restrictions and covenants that he for one, invested in heavily in this land because of those protections. Mr. Maxfield said are you saying the covenants that came with the property in that subdivision say there should be no fences? Mr. Gill said zero fences. You cannot have fences. The covenants that we read and accepted when we bought two lots, side by side, and in each case, the sellers of those lots, one of them sitting next to me, expressed to the fact that these covenants exist. There are a lot of restrictions. There are no out buildings, there are no sheds, you can't park your car for more than two weeks in one spot, and things like this. Perhaps, overkill covenants, in some cases he would agree. To build a gate, nice columns with a gate and it's an aesthetic thing,

we might want to do that ourselves in which case we might be seeking permission for such a thing. Attorney Treadwell said he'd like to clarify a couple of things. Point No. 1 regarding notice to the neighboring property owners, the requirement is that the neighboring property owners within 300 feet receive notice. The applicant provides the township with a list of those property owners. The township then mails out the notice. Mrs. deLeon said she stands corrected. Attorney Treadwell said there is a list containing approximately twelve different owners that the applicant provided. The township does not double-check that. We take the applicants list and mail it out. Mr. Gill is not on here. Mr. Gill said Chris made me aware of the fact that he provided the list to the township. With all due respect to Chris, he met me a long time ago, and knew I owned the land across the street. He only found out about this last week. Attorney Treadwell said the Township may have used the GIS map that may not be 100% up-to-date. He asked Mr. Gill how long he lived there? Mr. Gill said they don't live there, they just own the land there. He bought it from Norman Harpster. Attorney Treadwell said the county map may not be up-to-date on that.

Mr. Norman Harpster said he resides at 1740 Deer Run Road. He's on the list and received a notice. He was at the last township meeting and stated thenou that at least six of the properties had changed hands as long as three years ago including the Novak's who David notified, so the list was clearly in error and he requested that it be corrected. It was not corrected by the applicant nor was it corrected by the Township. There may be people who are not here that should be represented. Mr. Maxfield said if that list came from our offices, the source of that was probably the County, so you're talking about lists and names that have not been changed at the County level. He heard they are six months to three years behind. Again, we apologize for that. Mr. Harpster said the last time the variance was being proposed, the normal setback for the deer fence would have been 50 feet from the closest property line. The variance requested last time was that it be moved 47 feet encroachment to 3 feet from the property lines. The way this reads to me is that it hasn't changed. The second request is that the fence be altered from an allowable six foot high to seven foot high. This gives no representation of this. The picture implies that the only variance requested is the front fence whereas the paragraph implies that there is a deer fence "along the side and rear property lines" which implies to him the 3' from the property line, i.e., 47 foot encroachment is still being proposed. He'd like to understand what the proposal is since we were not privileged to see it prior to the meeting. Mr. Maxfield said we need to understand a little more about the process with this. The covenant question is the most important question here because you can go to the ZHB and get relief from our zoning, but that doesn't really have any bearing on the restrictions that are inside the covenants. That is a civil matter. That is actually between you as residents. Mr. Harpster said he's not a resident of Evermere. He used to own the property that he sold to David. He's now a neighbor. He bought a property that is tangent to Evermere and to this property. Mr. Maxfield said you're still in the vicinity and need to be notified for a variance request. What he's saying is regardless of what the ZHB does, if there is conditions that are covered under that covenant and deed restriction, that is something that you need to take care of and we can't enter into. Mr. Harpster said we fully understand that from the meeting where you said your actions were with respect to the zoning rules and that the other matter of deed restrictions was a matter of private, legal litigation. What we're trying to do is deal with your process with respect to zoning and then separately, presumably the residents of Evermere will do what they wish to do and some will participate or not. Mr. Maxfield said the zoning decision is not going to supersede the covenant restrictions. Mr. Harpster said he understood. Mr. Maxfield said that really should be attacked here. Mrs. deLeon said if it proceeds to the ZHB, but before it does that, they have this notice issue to deal with. It if goes to the ZHB, and they rule in favor of the applicant, that there is a 30 day appeal period which she would think you'd need to do some private litigation to appeal that decision. The township or the ZHB can't say no to hear the application because of your private language in the covenant. Mr. Chinnici said his question is to understand the congruence between what is stated there, the picture that is here, and the verbal representation that the only thing we are asking is not for an entire fence, but for a front structure. I think that's not correct. Mrs. deLeon said because they withdrew the two variance requests, maybe an amended application should have been presented. Mr. Maxfield said what we're doing here is moot. Attorney

Treadwell said the paragraph that is on the screen that you are looking at now, is a summary of the current zoning hearing board application. He believes what the applicant is saying is that the ZHB application that has been submitted is being revised. Mr. Chinnici said they are withdrawing two of the variance requests and we're revising the first one to say we want to build a structure in our front yard setback, not a fence. The structure being piers and a gate. Attorney Treadwell said perhaps it would be helpful for everyone involved if you submitted a new application. Mr. Chinnici said we will, we've been working trying to figure out what we can do. There will be something submitted to Township zoning with respect to what we are speaking about tonight. Mrs. deLeon asked if they were on the next ZHB meeting? Mr. Chinnici said our attorney is submitting a new request. We were on last months zoning and moved to this months zoning. Mrs. deLeon said you probably wouldn't have had to come tonight if you would have submitted the revised plan.

Mr. Maxfield said he would hope before you go to the ZHB that there's a lot of communication that goes on here. Mrs. Niewiarowski said we would both be most affected by the decisions. She just wanted to say that their original wish was to go through the Board. They were advised that there were so many other restrictions that we are losing points, so it's really up to you. These are two separate issues like you said. What is your advice in this matter for people who just want to settle down in their house and be happy? Mr. Maxfield said the ZHB application that exists right now is not representative of something you want to do. You have to put in a new application. You said you were going to do that. There's really nothing in existence here for us to rule on except that we have to oppose the one that exists that you already presented to us which we are not in favor of. He'd like to make a motion.

MOTION BY: Mr. Maxfield moved to oppose the existing application to the ZHB, and hopefully, you are going to withdraw that application and submit a new one and then this process can act like it should act and people will be notified like they should be notified and discussions can occur. For right now what we are doing as a Council, just commenting on a specific application, that specific application we are not in favor of. Also, the list of neighbors needs to be updated.

SECOND BY: Mr. Horiszny

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Gill said he spoke at length with the zoning officer who told him that the reason for him to show up this evening was that there was the right by the proposed applicant to file a live application to Council which was not available to the public in advance and he had to show up tonight to hear what the proposal, was live without detail, and to then express his opinion. What he's hearing from Council is that really isn't the process. The process is for the applicant to make a filing that is available for us to review, in advance, and that we can come here prepared. Mr. Maxfield said even if it was the process, we don't have a live application. Nothing has been submitted except words. Attorney Treadwell said probably the zoning officer recommended that you appear here tonight because the applicant may have come as they did and suggest to Council that they wanted to revise the application, but what you've just heard Council say is that they need to revise it in writing and submit it. Mr. Gill said thank you and they agree with that.

Mr. Birdsall said what he hears going on possibly is that they intend to use the existing application, amend it here and amend it in front of the ZHB in which case the Council and the residents wouldn't have a whole lot of opportunity. If they are going to this hearing in the next couple of days, there isn't going to be a lot of opportunity, so without fully withdrawing the old application and fully submitting a new application and starting the clock over again to allow the proper advertisement, we're in a limbo area that is a concern. Attorney Treadwell said that was the point of Tom's motion to oppose it as it currently exists in writing unless they amend it.

Ms. Young, resident, said we're not opposed to a pretty gate in front or something like that. The main thing she is opposed to is, she has kids, and everybody has a busy life. If you would

just follow the procedures and inform us and have something here for the gentlemen and ladies to actually work on and not waste everybody's time, that would be really appreciated. You don't even have an application here. What are we here for? These people are very busy and you are wasting everybody's time.

Bill Holler, 1760 Wyndham Terrace, said he agrees that we are all neighbors. He just doesn't like how we're notified. Nobody came over to my house and said let's talk about this. If I want to do something, I'm going to come over to you and talk with you as neighbors. He said, Chris, did a terrible job in communicating. It just seems it was done underhandedly and sneaky. Mr. Maxfield said he would use the term "sloppily" instead of underhanded.

ROLL CALL: 5-0

Mrs. deLeon said this process shouldn't be that hard that you need to come here with an Attorney. She would hate to know that you can't do this without an Attorney.

B. VNA HOSPICE (BLACK RIVER ROAD) – REQUEST EXTENSION TO SUBDIVISION IMPROVEMENT AGREEMENT

Mr. Kern said the applicant is requesting an extension of time to complete improvements on their project prior to a final inspection and entering into maintenance.

MOTION BY: Mr. Horiszny moved to approve the request for extension to the subdivision improvement agreement.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

C. ORCHARD VIEW – ROUTE 412 – REVIEW AND APPROVAL OF LANDSCAPE DESIGN

Mr. Kern said the applicant submitted a revised landscape design for Council's review and approval.

Mr. Kevin Kester, Van Cleef Engineering, was present. He said there was a plan previously prepared by Harte Engineering for the landscaping of this basin. They were brought on board late in the process and asked to take another look at what was presented originally. They had prepared a plan and resubmitted it to the Township. Judy Stern Goldstein had reviewed the Harte plan as well as a report that was prepared by Brandt Environmental Consultants. They've got a clean letter from Judy for the design that they have presented. They also met with the EAC last week and got an okay from the EAC as well. We're here tonight to ask for approval of the new landscaping design for the basin as well as the street trees they proposed.

Mr. Maxfield said we had one condition that they asked for and that was that the lots would be deed restricted so the landscaping could be consistent as the development progressed. The reason is it's a nice landscaping plan with native plants, so they are looking for that approach to the entire development and it's relatively close position to tributaries of the Cook's Creek and we're looking for special treatment in this area. Mr. Kern said the nature of the deed restriction would be in reference to the landscaping plan? Mr. Maxfield said yes, just the landscaping plan for individual lots. Mr. Kester said at the time of the EAC meeting, he said that probably was something the applicant would agree to. He has since spoken to the applicant and they are a little bit concerned about being limited to only indigenous plant material because something such as a Japanese Maple Tree would not be envisioned, therefore, an individual homeowner wouldn't be able to put

something like that on their property. They are a little concerned about limiting the individual's to that. We would hope there would be some other motion that may restrict it to a certain point, but not to just indigenous plant material. They aren't looking to put in all kinds of weird, exotics, but at least be open to some normal plants. Mr. Maxfield said what it might open up the individual lots to might be some invasive species, so if there would be any modification at all, he would like to run it by Judy. We would want to make sure nothing invasive would be planted. Mr. Kester said they could probably agree to nothing invasive and have those individual plants run by Judy before they are approved. I think they are just a little gun shy about nothing that is not indigenous. Mr. Horiszny said anything that has a country's name in it is probably an invasive. Mr. Kester said a Japanese Red Maple isn't really invasive. You've got a good point though. Mr. Maxfield said do you think the applicant agrees to the non-invasive status? Mr. Kester said he would think so. Mr. Maxfield said he'd like to caution it should go past Judy first. Mr. Maxfield said we would have to modify what is here if we were to add that as a condition.

MOTION BY: Mr. Maxfield moved for approval with condition that individual lot plans would go past our planner, Judy Stern Goldstein and that they be restricted to nothing invasive.

SECOND BY: Mr. Horiszny

Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

Mrs. Yerger said we are really appreciative of this plan. It is quite different from the original and definitely an improvement. Mr. Birdsall said this is basically a minor amendment to the plan. The plan is otherwise approved. It's in the process of meeting all of its final conditions that were imposed by Council quite a while ago, the DEP permit, the highway permit, and probably within the next couple of weeks, all the legal papers will be finished and it will be recorded.

D. <u>HERITAGE BUILDING GROUP – CHAFFIER/FILLER/THOMPSON (SKIBO ROAD) – PRELIMINARY PLAN</u>

Mr. Kern said the time limit for this project expires on February 1, 2006. Council needs to take some type of action prior to this time limit.

Dennis McCarthy, Attorney for Heritage was present. John Tressler, Vice President of Heritage was present. Mr. McCarthy said earlier today, via fax, he sent to your Township Manager a 90 day extension request that was executed by Heritage Building Group extending the deadline to May 1, 2006. The reason this was put on the agenda was the impending expiration of the prior extension. With that being said, they'd like to give you a preview of the coming attractions on the revised plan that will be submitted by the end of February. They've been hard at work addressing and resolving a lot of the issues and concerns that the Township raised when they were here the first time.

Attorney Treadwell said you were kind enough to bring a court reporter with you, could you just state for the record and for Council's information what was the initial submission date of the preliminary plan? Mr. McCarthy said July 21, 2004.

Mr. McCarthy said they'd like to give an update. Mrs. deLeon said the last time you were here, wasn't that regarding a proposal? Mr. McCarthy said a waiver request. That's coming soon. Part of this was there's the Filler homestead. A separate plan is being submitted to subdivide that. There was a question whether it should be a major versus minor. We will be addressing that shortly.

Mr. Tressler said the plan he's put on the easel is the original submission back in the summer of 2004. It went through extensive reviews by the township staff. They had some general concerns. They have two accesses into the site. One off of Meadow's Road and one off of Friedensville

Road. In both instances, they were concerned about those access points. The concern on Meadows Road was our proposed intersection was too close to the existing intersection and on Friedensville Road, the concern was that there was not enough adequate sight distance to the left. Those were two major concerns on access to the site. Another concern that was raised is there was a fracture trace identified on the northern part of the site. Our road was crossing the fracture trace and we also have proposed a detention basin in the area of the fracture trace. That was a concern. Another concern was access to this large existing property that is not developed, but they were concerned about future development. This plan did not provide any access to this property. Another concern was several of the lots, in yellow, they felt were too irregular in shape and could we try to improve on the layout of those lots. They also wanted us to investigate different access points and clearly, that was our major issue because the only frontage that we had was what was available on Meadows Road and what we had available at the time on Friedensville Road. At the request which is in the township review letters, we did talk to the people at the end of the cul-de-sac and tried to purchase the property, see if we could bring a road through and that fell through. What we ended up doing was buying two properties on Friedensville Road, the Padero property and the Brown property. They had some major issues so they set out about to accomplish that. With the addition of the Padero and the Brown property, we have moved our access point farther to the east and it has eliminated the sight distance problem that we had looking to the west. The road no longer crosses a fracture trace and we've moved the detention basin away from this area and moved it up to an area where it should no longer be a problem. With respect to the intersections, we are proposing to fix the poor alignment at this location as suggested by the Township Engineer. They've been back and forth on sketches and how they would like to see it done. It's also been reviewed by the Traffic Engineer. We are proposing the new plans that they want to submit within the next 30 – 45 days and we'll show this realignment. They've also checked with PPL and the wires will be relocated to follow the alignment on the roads. That's another issue they solved. You can see this lot is more regular in shape and the lots are better suited. Again, a suggestion that was mentioned to them. They are providing future access to the Donaldson property. Having laid this out to make sure that we wouldn't have any problem with the access, they did submit plans to PennDOT to get their review to make sure they would not have a problem with this access so they wouldn't go through six to nine months of review with the township and then get to PennDOT and have them say there's a problem. Attorney Treadwell asked if the Township has seen those PennDOT plans? Mr. Tressler said no. They've been working hard to solve the problems that were raised by staff. They are ready to complete the design and submit new plans.

Mr. Maxfield asked how much additional acreage was added by those two lots? Mr. McCarthy said it's about 200 x 600, so that's about 6 acres. One thing he should mention, even though they added the acreage, the lot count has been reduced from 51 to 50.

Mrs. Yerger asked how many units are you talking about in this plan? Mr. McCarthy said we're talking about a lot count of 50 and one of those lots is Lot 22 which is the Thompson house. Under the original plan, they were thinking of taking the Thompson house down, but as a result of adding the Kudera property and the other property, it now makes more sense to leave the Thompson house there. So there will be 49 new lots. Mrs. Yerger said you've discussed this with the water authority and gotten the necessary EDU's for that development? Mr. McCarthy said they've been trying to get the EDU's. They were before this board almost a year ago trying to get the EDU's. They were able to reserve a certain amount. They've asked for more at that time and were told until our plans were approved, they would not approve any more than what the original number was. Mrs. Yerger said she believes it was 40. Mr. McCarthy said that may be correct, he just doesn't recall. Mrs. Yerger said don't hold her to that, but that's what she thinks. Mr. Birdsall said his memory says 40 also. Mrs. deLeon said if you can't get the other EDU's, what are you going to do to your plan? Mr. McCarthy said he doesn't know. As you can see, it's a process. He doesn't know what the status is entirely. They weren't told that there weren't any further EDU's available when they made the request. We were told that they didn't know how many lots you are going to end up with. They were also told there are not a lot of extra EDU's and we're not going to

allocate any more than 40 at this time. So they moved forward and tried to address the issues they can address at this time and just proceed the best you can. Mrs. deLeon said when a subdivision is proposed, there is a formula that says how many units you can get from a site. What does that say? Attorney Treadwell said this plan that is on the board right now has not yet been submitted to the Township, so he doesn't think the Engineer or the Planner has had a chance to review that to do those calculations yet. He assumes the applicant did those calculations. Mr. McCarthy said he's not sure that was a requirement at the time they submitted the plans. It may be a plan based on lot size. They aren't asking for any more than what the ordinance allows. Attorney Treadwell said the review letters that you are referring to are letters that were done based on the July 2004 submission, not what you are seeing what is in front of you tonight. Mrs. deLeon said she just wants to make sure because a stenographer is here and that this is just a presentation and we're not making any decisions this evening whether we like it or don't like it. Mr. McCarthy said they aren't asking for a decision. They felt they owed you the courtesy. We wanted to let you know we're not just sitting back and not doing anything. They've been working hard on it.

Attorney Treadwell asked if the applicant had any discussion with either the township planner or the zoning officer as to whether the plan you are showing us here tonight would constitute a revised preliminary plan or a new preliminary plan submission. Mr. McCarthy said they have not had any of those conversations. Attorney Treadwell said that may be an issue going forward. In the future if you added an additional six acres to your original plan, if that would constitute a new plan submission or a revision of the previous submission. Mrs. deLeon said wouldn't that be a legal question from our Solicitor. Attorney Treadwell said he would certainly be involved in the process. The original question would go through the planning office and the zoning office. Mr. McCarthy said there is no requirement in the MPC or the township SALDO that this be treated as a new plan. In fact, it would be very problematic from the township's perspective to treat this as a new plan when the acquisition of new property was done to address township concerns. Attorney Treadwell said the acquisition of new property from the township's perspective was necessary to meet the township ordinances because the original plan, the access points on the original plan didn't meet the township requirements. The only way the applicant could meet the township requirements was to go ahead and acquire more property or request relief. Mr. Birdsall said that may not be totally correct. In other words, there may have been a way to develop that plan without buying land and still meeting all of the township ordinances. That information was not provided to us to show how they could meet the existing ordinances without buying land. It's not fair to say that they had to buy the land to meet our ordinances. They could have revised the plan. Mrs. deLeon said if you wouldn't have bought that land and would have proceeded with the original submission, it wouldn't have met our ordinance. If you would have continued the process, against what the township was recommending, when it eventually got to Council, we probably would have said no. Attorney Treadwell said if it didn't meet township ordinances. The plan as submitted did not meet the township ordinances. Mr. Birdsall said in his opinion it did not.

Mr. Maxfield asked Jim to address the part of our ordinance that speaks to substantial change in plans. Mr. Birdsall said there are some words like that in there. Mr. Maxfield said it would be really hard for us to try and argue an addition of six acres is not a substantial change to a plan. Mr. McCarthy said the point is this. When the plan was submitted and staff has an opportunity to absorb this plan, and all the good things we think have happened with it, the consensus is going to be this is good. They listened to our concerns, they reacted and they addressed them. You can't pass judgment on a plan that has not been submitted. What they wanted to do was just give everybody a sense of what is going on behind the scenes. We've given the township the extension so there is not a time issue. Let us submit the plan. The township staff and solicitor can look at it and draw whatever conclusions they are going to draw. We think they are going to be positive ones. For tonight, he's not sure Council needs to take any action one way or another. The extension has been submitted. The time line is pushed back to May 1, 2006. Hopefully, we'll be seeing you again in February depending how quickly staff can review it and we can look at these issues then.

Mrs. deLeon said why is there a stenographer here? Mr. McCarthy said we think this meeting should be what he just described. The extension was granted. The time issue is gone. We wanted to bring you up to speed. If the board decided that now was the time to formally reject this plan, we think that would have been inappropriate, and just out of abundance caution to protect his client, they thought it would be prudent to have a court reporter here. Please don't take any offense by it. Mr. Maxfield said he'd like to make a statement right there that if we grant an extension to this tonight, that we are not granting an extension to this plan as presented to us tonight. We are granting an extension to the original application that came in. This is not the original application. Mr. McCarthy said correct. He agrees. Mr. Tressler said that's not exactly why she is here. You are concerned about what you are doing and we are concerned what you're doing and he thinks everyone will understand and be clear. We're clear that you're not granting an extension to this new plan. They are not requesting anything on that plan. They are only trying to show you what we've been doing over the past 12 months.

Mr. Birdsall said there was some statement in the introductions when the extension went to and typically the township would want 90 days to be able to look at anything in the way of a resubmission and the form says 30 days. Mr. McCarthy said it's 90 days. Mrs. deLeon said this says 30. Attorney Treadwell said there's a new one. It's a 90 day extension. Mr. Birdsall said for the record, when is that? Attorney Treadwell said May 1, 2006. Mr. Maxfield said he'd like the rest of the board to understand where he's going with this, is that this extension is being granted to that plan which does not include the additional acreage. Mrs. deLeon said that's just a theory right now as we have no motion. Mr. Maxfield said he would make that motion.

MOTION BY: Mr. Maxfield moved to grant an extension to the original application that came in, and not to the plan that is presented this evening to us, and that the application as far as formal submissions that have gone into the Township. The township has seen no formal submission that included the additional six plus or minus acres.

SECOND BY: Mrs. Yerger

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. David Boltz, resident, said he lives at Four Seasons. His house is shown on the drawing. He asked when would you envision starting construction, what year? He'll be hearing all this noise. Mr. McCarthy said probably at least two years. Mr. Boltz asked in the revised plan, when you took out that sharp 90 degree turn there on Meadow's Road, what kind of traffic control do you envision at that access point into your development? A four way stop? A two way stop? Mr. McCarthy said he doesn't recall. Mr. Boltz said the tree line separating Four Seasons units which is at the top, they are really in dismal shape. He would hope that your plan might include some kind of new plantings of trees to act as a visual barrier. Mr. McCarthy said they can certainly give that some consideration. Mr. Boltz said in terms of being good neighbors, that would help them a lot. Thank you. Mrs. deLeon said ordinance changes – how would this affect the new submission? Attorney Treadwell said that's what the whole question revolves around, as to whether it's a revised plan or a new plan submission, which as of this date, has not yet been determined. Mrs. deLeon said does Council have any say in this? Attorney Treadwell said he thinks the law is what it is. Mrs. deLeon said it's subjective. Attorney Treadwell said it is what it is. It hasn't been reviewed by the Zoning Officer or by the Planner nor has he looked at it. That is a question that will come up in the future. Mr. Birdsall said so Council is aware, there have been ordinance changes since 2004. This changed from when they first submitted.

ROLL CALL: 5-0

E. LEHIGH GAS – CORPORATE OFFICE (ROUTE 378) – PRELIMINARY PLAN APPROVAL

Mr. Kern said the applicant has received preliminary approval from the Planning Commission and is before Council requesting Council's preliminary approval.

Mr. Don Frederickson, Engineer and Dennis McCarthy, Attorney were present. Mr. Topper sends his regrets. He had an event with his daughter tonight and couldn't be here. Tonight they are here for preliminary plan approval for the office building on Route 378. The PC recommended approval of this subject to certain conditions. For a handful of the conditions, which they would like to review for clarification purposes, we're in agreement with all of them and would request that Council vote to approve this plan. Mr. McCarthy said comment No. 2 on HEA's letter of January 4. Mr. Frederickson said they talked to the board about this previously. We're just requesting a waiver from a specific section of the ordinance regarding showing existing features within 250 feet. No. 2, Jim and I have discussed and he thinks they have resolved it There was a traffic study done at the intersection of Wyndotte and Mountain Drive some time ago. They have provided an update on this. Jim has had us make reference to the old traffic study and basically the conclusion we're drawn is that there will be a minimal impact at this intersection. That's not even an issue, and they'll address it in a letter to the Engineer.

Mr. McCarthy said under SALDO comments, page 2 of the letter, Mr. Frederickson said No. 2 is just a waiver request. We had actually discussed with Council and your Planning Commission regarding showing features within 250 feet of the site. A waiver has already been requested and it would just be a matter of making it official by approving that request. He said he believes Mr. Birdsall is satisfied that they've shown everything immediately adjacent to the site. So he doesn't think there are any problems with that. Mr. Birdsall said maybe he's not even looking at what they are looking at, but the Council has in their packet a HEA letter of January 4. It sounds like you are reading off of another letter. Mr. Frederickson said page 2, No. 2, Section 145-33.C(2). Mr. Birdsall said okay. He's not sure about No. 1 if some of that is offsite where we say the wood line should show as existing conditions. Subject to the other comments, he has no problem with the wavier as long as he covers the other issues. Mr. Frederickson said the issues he's skipping by, are already taken care of. No. 1 they had no problem. No. 2 is a waiver that they would ask Council to take official action on. No. 3 we're in the process of finalizing the plans with the City of Bethlehem. This happens to be in their area and we would accept that as a condition. No. 4 we will be making as a submission probably tomorrow to the Conservation District, so that is an outside agency and would be an appropriate condition. No. 5 we have made a submission to PennDOT just this week, so that's an outside agency condition as well. We're here for a preliminary plan approval, not final. No. 6 we will be working with the City of Bethlehem in regards to the water connection. In terms of the sewer, the sewer authority or your authority already has an agreement with them in terms of the fact that this was an existing use and they have on record, one EDU, which is what they are going live with. We're okay there. No. 7 we obviously agree to. No. 8, he mentioned previously, they had made a submission now to the Conservation District, that's the same or similar to No. 4. No. 9, we've discussed that with your Engineer and PennDOT and that's not a problem. No. 10 we're prepared to dedicate the necessary easements and right-of-ways. No. 11 we have discussed with your engineer and we will work that out. No. 12, Mr. Topper has agreed to the appropriate fees. No. 13 is the waiver request, and this again, was discussed with Council in that the site is rather tight. The street trees are being planted in a location other than what the ordinance requires. We're actually into the future dedicated right-of-way, but officially, we would need Council's action on that waiver. No. 1 and 2 under Plan Comments, there are no problems with those, just submitting some details to Jim and then correcting a minor drafting error on the plan.

Mr. Frederickson said in terms of the Boucher & James letter, again, they are not taking issue with anything. They would ask Council to allow us to work with your Planning Consultant in terms of

getting her input on the type of trees and bushes that she would like to see. They took a shot at it and she's suggesting she may have some other ideas and they will be happy to accommodate any ideas she may have. We believe the plans are in good shape. They've been to the ZHB and before you. We're not taking issue with anything. Obviously, they request consideration regarding the waivers and conditions upon your Engineer and Planner's review.

Mr. Kern asked what is the desire of Council? Mrs. deLeon said why isn't there a draft motion that pulls out all the outstanding issues so it's easy to know what we're voting on? Mr. Birdsall said his recollection at the staff meeting was when we went over the plan and the two letters, they felt the applicant had not taken care of all of the drafting and technical engineering things that they should have taken care of without outside agency approval. Council policy to us as the professional part of the staff is it shouldn't come before Council unless all those details are cleaned up. That's why they didn't proceed with a draft motion. Why it's back on the agenda, he can't speak to that issue.

Mr. Kern said you feel there are still outstanding items that warrant us not to grant it approval? Mr. Birdsall said if you want to maintain the policy that you've had with the staff, yes, that would be appropriate to hold off until these items are cleaned up. If you believe they are substantially in compliance, then he's not one to stand in the way of something that isn't a health, safety, and welfare issue. He normally likes to cut red tape himself, but they are trying to follow Council's policy on this.

Mrs. deLeon asked if the regulations say, if you ask for a waiver, you have to submit a letter? She didn't see one. Mr. Frederickson said we did, it's been some time ago. Mr. Birdsall recognized that and said a waiver request had been submitted. Mrs. deLeon said as Council, that's part of our reason why we grant or not grant. The staff does a wonderful job going through all this paperwork, but when it comes to us, we only gets bits and pieces, and she prefers to have an explanation from the developer in writing why you are asking for a waiver. Mr. Frederickson said that was supplied to the township. Mr. McCarthy said that being said, the letter indicates that they were submitted in writing. They are fairly straight forward, the waiver requests, and if anyone has any questions, Don can certainly answer them. Jim indicated that the outstanding comments are technical drafting issues, which again, they've agreed to address. It is just the preliminary plan. We think it would be appropriate for action tonight. Mrs. deLeon said you've sat through many of our meetings, and when she sits up here and she sees these things outstanding, outstanding, outstanding, get them done. Why keep killing trees with paper saying these things aren't done yet. You knew about them. Mr. Frederickson said that's not quite true. We knew about them as of January 4. Mrs. deLeon said what about Judy's letter then? Are all these issues technical in nature? Mr. Frederickson said he didn't think so. He doesn't want to spend a lot of time on this, and he appreciates Council's position on this, but his quick review of Jim Birdsall's letter indicates that there is nothing technical outstanding other than one minor drafting change and that's a 300 foot mistake they had. Judy's letter is saying some notes about what the ZHB said, which they are going to add. Her comments deal primarily that she has some ideas of what type of plants. We're going to work with her on that. We've been here a number of times and had some problems because we're crisscrossed by a number of utility easements from sanitary sewer to storm water and the LSA doesn't want plantings across their easement, so they have to try to provide a buffer to the adjoining property, but it's going to be an intermittent buffer because of all of the utilities that cut across the line. We'll work with Judy on that. He doesn't see any technical items really in HEA's review. Mr. Birdsall said the curb grades and details along the frontage and the waiver issue on the pipe direction, and the drop pipe situation. Mr. Frederickson said that's a waiver and he agrees, but we are here for preliminary plan approval.

Mr. Maxfield said the PC made a recommendation for preliminary plan approval and referenced two letters, both of November 8 from Boucher and James and from HEA, and the conditions involved in those two letters. Has work been done on the plans since and have you gotten another review from our staff? Mr. Frederickson said yes, right after the PC, they attempted to take care of

every item that they could and made a resubmission to staff some time late in November so that they could re-review and try to get the letter down to a minimum. Mr. Birdsall said they have taken care of a lot of issues. Mr. Maxfield asked Mr. Birdsall if there was anything on there that would change design layout or anything like that? Mr. Birdsall said not as far as the civil engineering stuff, no. Mrs. deLeon said she guesses her hesitancy is that she just doesn't want to miss something. It's hard to pull out notes, etc. Mr. Maxfield said it's been around for awhile and it's conditional approval. Mrs. deLeon said she thinks a lot of these things should have been off this list before you got here tonight.

Mr. Maxfield said the applicant said at PC that they were going to attempt to do exactly what they did. We felt, at PC, that even at that point, most of these were not designer layout issues that would change those things, so he really doesn't have a problem with giving it a conditional preliminary approval. They are conditions. Nothing is going to happen until those conditions are fulfilled. Mrs. deLeon said our job up here would be a lot easier and our meetings would be a lot shorter if all this stuff was done. We wouldn't be talking like we were for 15 minutes.

Mr. Maxfield said this submission was made before the holidays and our review letters came out after the holidays, and he is a little confused as to why it is back on the agenda back again so fast. This is pretty fast after the review letters to be back on the agenda. Mrs. deLeon asked when the expiration date was? Mrs. deLeon said we need to put expiration dates on these pink pages again. Can this be done in two weeks? Mr. Frederickson said he's not sure he can clean up anymore than they have.

Mrs. deLeon said they eventually have to get cleaned up, she doesn't understand why they can't be? Mr. Frederickson said they asked for Judy's input six months ago. They got nothing. He was told to put what you want on the plan and then we'll comment. How long are we going to go on this way?

Mrs. Yerger said what about all the stuff from HEA? Mr. Frederickson said let's go over the stuff from HEA. Mrs. deLeon said we just spent 15 minutes doing that. Mr. Frederickson said there's no technical items. Mrs. deLeon said why are you talking about technical items? Mr. Frederickson said most of these are outside agency approvals. Mrs. deLeon said she's not talking about that. She's talking about the other ones. Mr. Horiszny said it looks like there are a number of things that request notes on drawings. Mr. Frederickson said these are all brand new comments. These were not commented on before. Mr. Horiszny said can they be put on the drawings within two weeks? Mr. Frederickson said yes, they can be. Mr. McCarthy said why don't we change direction and if the Board wants to table it until the next meeting, they'll do their best to address whatever can be addressed. Mr. Kern said it sounds like a smart idea at this point. Mr. Maxfield said that doesn't violate our submission dates if there are changes to a plan? Mr. Birdsall said at this stage, when there are interim submissions like this, we still carry that same end date unless there is an extension granted by the applicant, so it wouldn't violate anything if they got it in real quick. We have to have our draft motion in their packet by Wednesday before the meeting. You really only have one day to get the plans in. Mr. Birdsall said a formal resubmission, would that constitute 21 days, whatever the new policy is? When it comes out of PC like this, he thinks our new policy has been that as long as they are cleaning up engineering details, they can make an "interim submission" or "engineering purgatory" without the 14 sets or whatever. It may be just five sets for Chris and Judy and me to look at and one to keep until it's approved by Council. They must submit x number of plans which may be 14 or 21 for the Council so that we have a clean set of preliminary plans that becomes the approved preliminary plan. It may violate the submission policy if the board is willing to go along with that, you have the power to allow that to happen. Mrs. deLeon said she thinks we can set policy, so if we want to amend our policy for this instance, she doesn't see why we couldn't. Mr. Maxfield said at the least, he'd like to see this back on in two weeks. It's not fair to stretch it out any longer. Everything on here is going to have to be addressed and be on the final plan. He doesn't want to hold this applicant up anymore. We've seen this a lot of times. Mrs.

deLeon said we're not holding them up, if they have to do extra stuff, its up to them to do it. We are looking at their process. Mr. Maxfield said in going through Jim's letter, he sees 4 through 8 are outside agency items. Mrs. deLeon said she's not talking about those. Mr. Maxfield said there's no. 9 that could be addressed. No. 10 looks like a drafting item. No. 11 is something that could be addressed. No. 12 is something that is done later. No. 13 is something that you need to talk to Judy about, maybe not. There's not as many items as we think. Mrs. deLeon said those should have been addressed before they got here tonight. Mr. Maxfield said some can, some can't. If the applicant is okay with two weeks, then that would be okay with him.

MOTION BY: Mrs. deLeon moved to table this until two weeks.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

V. TOWNSHIP BUSINESS ITEMS

A. CHRIS DRAPER – 2020 POLK VALLEY ROAD – REQUEST TO HOOK UP TO HELLERTOWN WATER

Mr. Kern said Chris Draper has requested permission as a Township Resident to contract with the Hellertown Borough Water Authority to connect to their water lines for his residence on Polk Valley Road since LSA lines are not readily accessible to his property.

Chris Draper was present. He said the letter he submitted to the Township Manager requesting this authorization is pretty explanatory. He was invited here to answer any questions that might be presented relative to this.

Mr. Maxfield asked if he had a failing system? Mr. Draper said our current system is an on-site well and the water quality has become quite harsh. It's very acid water and harsh on our plumbing system. Mr. Maxfield said you've tried a water softener? Mr. Draper said they've investigated the water softener, and with the costs and maintenance relative to that, they felt it was better to hook up to public water if it was available. Attorney Treadwell asked if he knew where the Hellertown Water Authority line was located now? Mr. Draper said yes, we are on the south side of Polk Valley Road. Hellertown Water Authority line is on the north side of Polk Valley Road. Attorney Treadwell asked if he had discussions with the Hellertown Authority how that connection would be accomplished because Polk Valley is a township road. Mr. Draper said the township line is down the middle of the road. The north side of the road is McAdoo Avenue on Hellertown's side and the south side road is Polk Valley Road on the Township's side. Attorney Treadwell said how would you physically make the connection? Mr. Draper said the Borough Authority has said they provide a device that goes under the road. They don't have to dig up the road. Attorney Treadwell said what size connection would this be? Mr. Draper said as he understands, they provide a ¾" connector. Mr. Birdsall asked how big was his property? Mr. Draper said it's 9.67 acres. Mr. Birdsall said if you had Borough water service, would you be expanding that at some point in time if your property developed? Mr. Draper said unlikely they would use Borough water service. The discussion he had this evening with Mr. Davidson, Mr. Davidson had questioned that. Their purpose for this is strictly for their single residence and we have no plans at this time for subdivision.

Mrs. deLeon said the way the lot is configured, if you were to subdivide in the future, are you close to the Hellertown Park waterlines? Pointing to a map, Mr. Davidson said we're in the situation where this is Polk Valley Road along the top. The extent of the water authority lines is this blue line. Under normal circumstances, if this was just in the middle of our system, and this was the end of the line, we would ask the applicant to extend across the frontage of their property with the

water main. Given when we first discussed this, we said we got the park over here, and we did not want public water there. We're near the end of where this thing is likely to go in the foreseeable future. Our suggestion was Hellertown's main is right across the street. Other residents in this area ,since these blue lines from the LSA have only been there since 1999, so there are other Hellertown connected customers in the township in this immediate area. Our only concern is that in Hellertown Park lines you have dead end lines coming up. If this was ever to be developed, we would definitely want these to be our customers and the ability to loop these lines from a water quality standpoint as well as an overall operational standpoint. You want to be able to connect all of these things in case you get a break or anything goes wrong, the system operates properly. Our concern on this was let them connect, but is there a way to put some language in which would protect us in the future that if this was ever subdivided. This would be recognized that he would revert to being essentially a LSA serviced property. We looked at that as being the best of all possible worlds. The only other thing we had suggested was if for some reason this would change up here, and plans would be that you would want water here, in the park, for some technical reason we don't see now, that we would want to be able to extend this up through there. Under what we all know at the moment, it doesn't appear that's where we want to go. It seems like a reasonable idea and we support his hooking up to Hellertown with that type of language and some type of an agreement. Mr. Draper said he and Mr. Davidson spoke briefly about making that compromise and he and his wife feel that is acceptable. Mrs. Yerger said it looks like from the map that the back end of your lot is heavily wooded. Mr. Draper said yes, there's a moderate slope there also.

MOTION BY: Mrs. deLeon moved to grant Mr. Draper's request to hook up to the Hellertown line with the condition that he finalize the paperwork with our Solicitor to put that language in that if there are ever tracts developed, that it would go back to the LSA.

SECOND BY:

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Maxfield said we should grant one connection.

ROLL CALL:

MOTION BY: Mrs. deLeon amended her motion to grant one connection and Mr. Draper's request to hook up to the Hellertown line with the condition that he finalize the paperwork with our Solicitor to put that language in that if there are ever tracts developed, that it would go back to the LSA.

SECOND BY: Mr. Kern

Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

B. <u>ORDINANCE #2005-14 – POSSIBLE AMENDMENT TO EMS ORDINANCE REGARDING 2% COMMISSION</u>

Mr. Kern said staff is recommending to Council to revisit the EMS ordinance, originally the OPT ordinance, regarding a section relating to a two (2%) percent discount that an employer is allowed to deduct.

Mr. Cahalan said a little history of the changeover from the occupational privilege tax which was on the books here since 1970 and that was a tax that was $10 a year that was placed on individual's working in the township. Last year there was legislation that allowed us to change it to the EMS emergency municipal services tax which Council did. We kept it at $10. When we did that, we kept a lot of the language from the OPT tax. Recently, Council moved to increase the amount of the EMS tax from $10 to $25 to raise funds needed to make the contributions to the fire companies and that was passed with the 2005-15 ordinance back on December 21st. We've since looked at that ordinance and found there was language in the ordinance that allowed employers to deduct a commission that amounted to 2% of the tax that they were taking out. When it was $10, they were allowed to take out 20 cents and keep the 20 cents and send in the $9.80. Now with the $25, it's 50

cents that they would be allowed to retain. We think this is language that is sort of outgrown its usage. It probably predates automation of payroll collections and he doesn't think there is any current need for it. They are recommending that Council look at that and consider removing that language from the ordinance. Mr. Horiszny asked if it was for a collection fee basically? Mr. Cahalan said yes. Mrs. deLeon said just for consistency, when we talk about this EMS tax, we should refer to it as the EMST tax because the ordinance refers to it as a tax and when you first look at EMS, she thinks of the Emergency Management Services. She asked what about self-employed people in the regular ordinance, it does cover that, doesn't it? It talks about employees. She just noticed on the old, old ordinance that it jumps down to Section 7, self-employed individuals and she doesn't remember if the ordinance replaced the entire ordinance. Attorney Treadwell said the new one just amended the old one, so those sections of the old one that didn't change, including the self-employment section, aren't mentioned in this new ordinance because we didn't change it. Mrs. deLeon said the self-employed people, do they pay $10 or $25? Attorney Treadwell said they pay $25.

MOTION BY: Mrs. deLeon moved to authorize Ordinance 2005-14.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? Stephanie Brown was curious about this as her father has a business in a different township. He's the sole proprietor, how would something like that affect a sole proprietor. You're doing away with this because most of these companies have automated payrolls. Some of the smaller businesses don't, so how do you justify what you are asking for in terms of those people? Mr. Cahalan said he was saying that part of the rationale for imposing it back then in 1970 was there was work that the employer had to do and now with automation of the process, that was one rationale he suggested to Council, not the only one and it may no longer exist. Ms. Brown said it does so exist, her father does his own payroll. There are smaller businesses that don't have the luxury of automated payroll. Mrs. deLeon said her husband has his own business and they have a small payroll and we used to keep the 20 cents. Attorney Treadwell said under the ordinance and the state statute you can't differentiate. You either do it for everyone or nobody. Mr. Kern said the 20 cents is going to a good cause, the fire companies. Ms. Brown asked how they decided on $25? Mr. Kern said it was mostly to cover fire company's expenses that were incurred this year which was $20,000 and this amount covered that. At this time, they are not looking for any increases, but it could happen depending on what happens with the budget next year and the needs of the township.
ROLL CALL: 5-0

C. <u>REVIEW AND APPROVAL OF JOB DESCRIPTION – DIRECTOR OF FINANCE</u>

Mr. Kern said the Manager has prepared a job description for the Director of Finance for Council's review and approval and authorization to advertise for the position upon the retirement of Martha Chase.

Mr. Cahalan said Ms. Chase will be retiring at the end of the month. We need to find a replacement, so he's prepared a job description and given a copy to Council to review. He'd like, after your approval, to advertise the position and begin recruitment and replace her hopefully by some time in the middle of March.

MOTION BY: Mrs. deLeon moved to approve the job description for the Director of Finance. She would like it compared to our administrative code and the second class township code just for consistency and we need to assign a grade to this.

SECOND BY:
Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Horiszny said do we need to do that assign a grade right now as it will depend on the candidate. Mr. Cahalan

said he can come back with that. Mrs. deLeon said he hasn't seen the chart yet. Mr. Horiszny said maybe you want it to be a lower grade to save money. Mrs. deLeon said she will take that out of the motion.

ROLL CALL:

MOTION BY: Mrs. deLeon amended her motion to approve the job description for the Director of Finance. She would like it compared to our administrative code and the second class township code just for consistency.

SECOND BY: Mrs. Yerger

Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

MOTION BY: Mrs. deLeon moved to direct the Manager to advertise the position and the salary range would be between $45,000 and $50,000.

SECOND BY: Mr. Kern

Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

MOTION BY: Mrs. deLeon moved to direct the Manager to amend the position classification codes of the township to include this new position and let him decide how he wants to handle that and bring it back to Council for approval, and also, include the new position, the Administrative Assistant position, that we authorized in the budget.

SECOND BY: Mr. Kern

Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

ROLL CALL: 5-0

D. <u>UPDATE ON FAA TOWER</u>

Mr. Kern said the Federal Aviation Administration (FAA) has released its Final Environmental Assessment (EA) on the proposed Airport Surveillance Radar structure that they are proposing to install on property owned by Lehigh University in LST. The Manager will provide an update.

Mr. Cahalan said not much has happened since the last meeting. At that last meeting, he updated you that a letter had been sent at Council's direction to the Chairman of the Board of Trustees at Lehigh University and the letter requested that the Board of Trustees block any efforts by the FAA to construct the tower on Lehigh University property on South Mountain in LST. The Lehigh University representatives indicated to him that the letter was going to be taken up by the Board of Trustees at their next meeting in February 2006. Council, at the last meeting, asked him to send a second letter to the trustees with a more emphatic request to them, and say to them to say NO to the FAA. That has been done and sent to the Chairman of the Board of the Trustees. They'll have both letters when the Board meets in February. In addition, Council asked him to notify the agencies in Bethlehem that we were dealing with some time ago to let them know that the process has not been finalized, that there's still a long way to go with this process before any approval is considered or given to construct this tower. He wrote letters to the Historic Bethlehem Partnership and to the Greater Lehigh Valley Chamber of Commerce giving them information on the issue of the Bethlehem Star. If you looked at the report, their response consisted of about two sentences. He pointed that out to these agencies as they were the ones concerned about the proposed tower being located close to the Bethlehem Star and that it would have a negative impact. He has not heard any response from them. The only other thing they received since then was some material from our friend, Bill Shire from the City of Bethlehem who has always been representing the Township's interest before the City of Bethlehem Council and he had a request in there to the Council for

response and a copy is in the packet. It appears that they will not be taking any action to bring it back to the PC at the City of Bethlehem. Council thanked Mr. Cahalan for his efforts.

Mr. Kern asked if anyone in the audience had any comments or questions? No one raised their hand.

E. UPDATE ON RIVERSIDE DRIVE (THE NARROWS)

Mr. Kern said Township Council and staff have continued to push PennDOT to repair and re-open Riverside Drive. Council would like an update as to the status of the Task Force progress regarding Riverside Drive.

Mr. Cahalan said since the last meeting they gave everyone an update of the previous meeting that was held with the Task Force members and the PennDOT representatives. Following that meeting, they agreed to meet again in January, and they've been working through Representative Bob Freeman's office to set that meeting up. That has been done and that meeting is scheduled for January 20 at the PennDOT offices. In between the meetings, we've gotten a little information. He did hear from Gerry Frye, lead engineer for PennDOT, who has been in attendance at the meetings. He had contacted him to make sure that he had everything he needed for the January meeting. He said he did and indicated there is an outline of how PennDOT apparently plans to move ahead with reopening and repairing the road. The outline was broken down into several steps. The first step is the debris would be cleaned off the road that was deposited there by the landslide back in September 2004. They would put in some H shaped piles, cross timbers, guide rail posts and then would build up the road with material and pave it. He said the road would only be one lane wide. He pointed out that the road was posted for "no trucks" before the Ivan storm and they would be looking for the same restriction for the road again. He asked Mr. Cahalan if he could discuss with Council and find out what the Township's position would be on opening the road as described above, a one lane road, but restricting truck traffic. Mr. Cahalan asked him about truck traffic, and would emergency vehicles be able to access the road. He said that wouldn't be a problem. Emergency vehicles do go over roads and bridges that are restricted in the event of an emergency to get to the scene. That would not be an issue. What he did ask is would the Township offer to manage the road. He said that managing meant more of an enforcement role to make sure the weight restriction was enforced so trucks would not use it. He said to get back to him before the meeting on the 20th. He'd like to know what is Council's feeling.

Mrs. deLeon said its four months since we met with the legislators and we are no closer to getting that road opened. We're meeting on Friday, so she'd like to be prepared in case they ask questions so there is a consensus of Council. The resolution is going to be very helpful. She agrees with Jack and he's giving us what we had before Ivan, but she's bothered by the word "manage". She's uncomfortable by that word as when we were at the meeting before, they are interpreting they want to do things and they want us to take back the road. We really don't want to do that. If they point blank ask us on Friday, she wants to be prepared to say Council says we're not taking back the road and don't want our residents to pay for future repairs to that road when PennDOT has the responsibility. If we do put a truck restriction on the road and our police would enforce that, she doesn't know if she would consider that to "manage" the road because that's our responsibility.

Mr. Maxfield said there was talk at the initial meeting about leveling out a section of the road so we could get rid of the retaining walls all together which were a maintenance hassle. Any reference to that? Mr. Cahalan said the only thing is Jim and the Township have not seen any plans at all. We were waiting for them to come back with the plans. The only thing he does know is they are doing this so that they do not have to disturb the Norfolk Southern train track. Mr. Birdsall said it sounds like from the description that Jack has given, that they are not changing the elevation of the road other than just restoring where it's washed out. In the short run, that's probably the cheapest, and in the long run, it may not be the cheapest, but it's really their road, so we can't dictate much if

they are meeting our request to open it for one lane traffic. We may verbalize some of these things at the meeting, but we can't impose a design on them. He'd like to see something a little better than timbers because that seems to be a short term fix because no matter how well the timbers are treated, they do rot when they are exposed to water and air. Ultimately, it's up to them and it sounds like they are stepping up to the plate because of your pressure and because of the legislative pressures, so he's real encouraged.

Mrs. deLeon said she knows the township, under the past turnback program, took over roads and it was like in 1986 or 1987, and does Jim recall if Main Street Freemansburg was a PennDOT road? Mr. Birdsall said he doesn't recall. Her point is there was an article in the paper that Freemansburg getting a $925,000 grant to fix the S turn under the RR bridge. This could be the expense the township could face to fix the Narrows five years down the road if we have another landslide. At this point, if she offered a motion, would Council be comfortable saying, at this time, we are not interested in taking back the road under the turnback program? When we go to PennDOT on Friday and they ask us, we would be able to answer them. Mr. Maxfield said can we include in that, that the word "management" be changed to "enforcement" of truck traffic and weight restrictions. That way it makes it very clear.

MOTION BY: Mrs. deLeon moved that it is Council's position that it should remain a PennDOT road, but that the Township would agree to enforce any weight limit or truck traffic restrictions.
SECOND BY: Mrs. Yerger

Mr. Kern asked if anyone in the audience had any questions or comments? Chris Snyder, Fire Chief, said to keep in mind, the business down in the Narrows, he's going to want to use that for truck traffic for his vehicles. That was a highly used road by him, so that might be something we want to keep in mind to have PennDOT know of that and push for a higher weight limit. The road is going to built a little better like Mr. Birdsall said. That road has been washed out for years, and the State wanted to take that road back. He doesn't know, as a taxpayer in the Township, that he wants a $4 million repair a couple years down the road. When we went through there, we had six inches on either side of our tires. If a rock fell down, we didn't even have that. If they'd go back a little, it would give them a nice clear pathway. They'd like to ask for a 12 foot lane. The residents deserve a better road. Mr. Birdsall said typically a weight limited road, the exemptions are a couple of things – emergency vehicles, deliveries to homes like an oil truck, "local deliveries only" and school busses. We should clarify what they mean by a truck limit. If it's the standard motor vehicle truck limit, he thinks we're okay with that because there are automatic exemptions for those sorts of things, but we should clear that up.

Mr. Maxfield said this person that runs this business will probably be using this several times a day, he could be towing trucks. So, do we want to make an exemption he can come in the other way. Council said no, it would make a traffic problem for any emergency. Mr. Birdsall asked if there was a turn around area near his property that he could come in the other way? Mr. Snyder said his property is currently the turn around area. Mr. Birdsall said can it be two way into that point and one way the rest of the way? Mr. Maxfield said two way from the Reddington Road side? Mr. Birdsall said yes. Mr. Snyder said, at this time, the one way starts right at his business. Mr. Birdsall said that's where we would end the one way if that's where it ends now. Mr. Snyder said that's a huge inconvenience. He knows how it is for their vehicles to have to around there and he can't imagine being that business owner that purchased that property prior to Ivan was able to use that and now it's different. Mr. Birdsall said he sees what he means. The one coming into his property, he took the short cut. Mr. Snyder said correct, he has to have vehicles. It's a public business where people are constantly coming and going. Mr. Maxfield said can you make an exemption for a business like that? Mr. Birdsall said if the one way were actually moved east of his property and his only way in was from Steel City, then he would probably qualify for "local deliveries only". No trucks, local deliveries only, that's a local delivery. There's no other way he can get in if the one way is east of him. Mr. Snyder said or if the weight limit was a little higher,

which would encourage PennDOT to build the road a little safer. That would be his wishes there. Mr. Birdsall said he doesn't think it's the weight limit so much. In other words, they are going to have to build it sufficiently for a loaded fire truck. It's not the weight limit so much as the geometric constrictions on trucks and that repeated truck traffic and that's where this local delivery exception comes in. Yes, you have to let the people in that are solely served by that road in there, but you don't want repeated through traffic. If we can clear that up with PennDOT and know where the one way ends and one way begins, he's going to have to not go back out that way, but he should be able to go in that way. Mrs. deLeon said he could never leave that way. Mr. Birdsall said right, that's a very good point though. We should make sure we understand what PennDOT means.

Mr. Allan Johnson, resident, said he didn't hear you mention it, but have you considered the extra width that would be required of the roadway as a place to put snow when you are plowing the snow, and also, the weight of the snow truck which have a lot of salt on them. Mr. Snyder said what they used to do was put the snow there, and then back out. Mr. Maxfield said we should make sure the management of this road doesn't involve plowing by our guys also. Mr. Birdsall said we may have an agreement to plow that. Does the state ever go in there and plow it? Mr. Cahalan said yes. Mrs. deLeon said we need to talk about that on Friday – snowplowing. Mr. Maxfield said if PennDOT really has a problem going through there, and they get to the point where they have to leave a lump of snow somewhere, do we want to work out some sort of agreement or plan with them that we might plow it? Mr. Birdsall said that is best left to the Police Department and Emergency Responders. He wouldn't want that to be written anyplace or be policy. He's afraid it would default to that all the time then. Mr. Kern said awhile back there was a motion on the floor.

ROLL CALL:

MOTION BY: Mrs. deLeon amended her previous motion and moved that it is Council's position that it should remain a PennDOT road, but that the Township would agree to enforce any weight limit or truck traffic restrictions, the width of the road being 12 feet, and snowplowing by the State.

SECOND BY: Mrs. Yerger amended her Second

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Horiszny asked if the state ever paid municipalities to plow? Mr. Birdsall said yes they do. That's why he was almost going to ask that question. The Township has an agreement with the State to plow certain state roads, at least they used to, and you get paid so many dollars a mile. It's convenient in certain cases as your plows are there anyhow and it's worked out ahead of time. Then it's the whole year, you don't get to trade back and forth and it's not just snowplowing. It's ice, salting, freezing of gutters and things like that. Ms. Stephanie Brown asked if it was a towing business? Mr. Maxfield said he believes it's a junk yard. She said you were talking about restrictions and local deliveries. She's curious, one of the things is they have many different size trucks. Some they can't go over the Meadow's Road bridge with because of different weight restrictions. If he has a junk yard, some times we tow cars in and other companies tow them back out with different trucks and different sizes, this is something you might want to take into consideration when you are wording this thing for PennDOT. It's something to think about. Mrs. deLeon asked Mr. Cahalan to put this in a letter to present to PennDOT on Friday.

ROLL CALL: 5-0

F. <u>AUTHORIZATION TO PREPARE AND ADVERTISE ZONING ORDINANCE AMENDMENT TO REVISE ZONING MAP</u>

Mr. Kern said the Township Zoning Map needs to be updated to include approved subdivisions that have not been designated on the map. Council should authorize the advertisements to amend the zoning ordinance.

Attorney Treadwell said it's not exactly a zoning map amendment. We're not changing the zoning. All we're doing is adding to whatever base map we have, newer subdivisions. Mr. Birdsall said we're doing two things. The updating of the roads and the subdivisions was kind of the secondary issue because primarily we are updating or revising the zoning map to include watershed protection for the Cooks Creek Watershed, so there's an overlay zone. While we're doing that, staff said we might as well add the roads to. Attorney Treadwell said just the roads and the subdivisions wouldn't need the ordinance. Mrs. Yerger said this is for the recommendations that were in Judy's letter when she was reviewing the source water protection plan. Mrs. deLeon said when you are saying approved subdivision, the roads within the subdivision? They get to be named and we never know. Attorney Treadwell said his only point was it's not technically changing the zoning, so you wouldn't need to go through that whole process to just add the roads to the maps. Mr. Birdsall said if you are making a motion, if you would please, mention that in your motion that it's for amending the zoning map for Cooks Creek watershed area.

MOTION BY: Mr. Horiszny moved for approval of authorization to prepare and advertise the zoning amendment to revise the zoning map for adding the Cooks Creek Watershed overlay.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

G. AUTHORIZATION TO EXECUTE CONTRACT FOR TRANSCRIPTIONIST SERVICES

Mr. Kern said the yearly contract between Diane Palik and the Township for transcription services has been prepared and Council should authorize executing the contract.

Mr. Cahalan said we've been doing this contract annually with Diane and last year we added the EAC and PC meetings. Mrs. Yerger said they really appreciate it. In addition to Council, the compensation is spelled out on page 3 of the contract.

MOTION BY: Mrs. deLeon moved for authorization to execute the contract for transcriptionist services.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

VI. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF MINUTES – JANUARY 3, 2006 MINUTES

Mr. Kern said the minutes of January 3, 2006 have been prepared and are ready for Council's review and approval.

Mrs. deLeon said on page 33 of 36, at the very, very bottom, the last full sentence, "Mrs. deLeon asked if anyone in the audience", Mrs. deLeon should be changed to "Mr. Kern". On page 36 of 36, under her reports, she may have said this, under the PSATS training, where it says, "Sign Ron up for both of them." It sounds like she said to sign him up. Ron chirped in and said to sign him up, so change it to "Ron wants to be signed up for both of the PSATS training courses".

Mr. Horiszny said Page 10, four lines from the bottom, "Revolved and Enacted, this 2nd day", change it to the "3rd day of January". Page 15 of 36, under X, Second by – change Mr. deLeon to Mrs. deLeon. Page 17 of 36, under Resolution 17-2006, first sentence, "Public Works salary at $3,000 which $750 longevity pay", change "which" to "with". Page 21 of 36, under LST Library Representative, first sentence, after library, add representative. At the bottom of page 21 of 36, Bill

Csaszar's name is spelled wrong, and also at the top of page 22 of 36 his name is spelled wrong. Under G., Lache Peeke should be Lach Peeke. Page 24 of 36, under 2nd paragraph, take out "from May to June so if we can put in the minutes that she's the representative." Page 24 of 36, under ADJOURNMENT, Second by, change "Mr. deLeon" to "Mrs. deLeon". Page 25 of 36, 12 lines up, "crowed" should be "crowded". Page 33 of 36, last sentence, "Mrs. deLeon" should be changed to "Mr. Kern".

MOTION BY: Mr. Horiszny moved for approval of January 3, 2006 Council minutes with corrections.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

B. APPROVAL OF DECEMBER 2005 FINANCIAL REPORT

Mr. Kern said the December 2005 financial reports have been prepared and are ready for Council's review and approval.

MOTION BY: Mrs. deLeon moved for approval of December 2005 financial report.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

II. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

- Mike Guerrieri sent a letter to Council about a week ago. Mrs. deLeon said she did pull his letter out and was going to ask about it under her reports. It was in our packet. He had two questions. He has the properties at 1844 and 1853 Friedensville Road. His business property is there at 1853 and his mother lives at 1844. He's in the process of looking for an assisted living home, something smaller for her. He was wondering what procedure he would have to follow to try to use the house for his business office which basically would amount to three people, no physical changes to the house, he doesn't need a sign. Any unloading of trucks that would be delivered to him would be delivered to the property next door, so basically he'd use it for office space for his daughter, his son, himself and a part time girl. Would it be necessary to go for a variance? Mr. Cahalan said you've spoken to Chris Garges and what it involves is something we're going to have to discuss at a staff meeting as you may be asking Council for a change to the zoning in that area. Then they will come to Council with a response to his letter. They haven't been able to do that. Mr. Guerrieri said the other item in the letter is he's been looking into sewage for about 15 years, since they are getting to the point where there is more and more development on Friedensville Road. He talked to Mr. Davidson a while back. It looks like there may be a potential hookup where if he would run the line on the eastern section of Friedensville Road, they probably could tie into that line. Mr. Birdsall said he thinks there is allocation for existing homes and businesses in that area, so he doesn't think there is a capacity problem. You have to work out the logistics where it's best to hook up for the long run. It would be the LSA to come up with the best layout and help him with that. Mr. Kern said staff will review the letter next Tuesday and report back to Council at the next meeting.
- Ms. Stephanie Brown, resident, said she has some questions regarding Toll Brothers property not related directly to her father's property. What is the status of the drainage basin or catch basin that is on Meadow's Road down near the farmhouse? There's a lot of problems with water runoff. Mr. Birdsall said the basin is built to regulate the water and then discharge it on to the shoulder of the road. Ms. Brown said there were other complaints about the water discharging on to Meadow's Road and Mr. Holum's property. The ditch either overflows or the capacity of the water is too much for it to handle and begins ponding before the RR tracks, sometimes it goes to the Saucon

Creek and she wonders what DEP says about that. Mr. Birdsall said he doesn't know what DEP says about it. He does know there is a soil erosion control plan that they have approved for that area and we're watching to make sure that plan is followed. The water does go that way and that was the natural course of the water before the development occurred. He has seen it go over the RR tracks itself and go into the Saucon Creek. They are in one of the worst stages of development when ground is exposed. Until things get stabilized with grass, it's going to be a chocolate or milky colored water. The rate is what they can control and the rate is being controlled, but the volume is a lot more because when it's exposed like that. It's almost like 80% runoff factor instead of a 30% runoff factor for the lawn areas. Until they get it stabilized, there is going to be a lot of water volume. Ms. Brown said someone had told her that the ditch was supposed to be made bigger to help accommodate that problem. Mr. Birdsall said they feel if they cause damage, our position has been that we're monitoring it, we have photographs before the work started. If they damage or their water damages the township road, we have the ability through legal agreements, to make them repair it. As far as being able to make it bigger now, we did ask them to do that. They have not been willing to thus far, and so that's where we are. We have no enforcement to make them make it bigger as it's something called an offsite improvement. Ms. Brown said there was some drainage there to begin with, but the drainage stopped. If the water stays within that ditch, it stills stops at the RR track and ponds. What is the remedy for that situation? Mr. Birdsall said there is no remedy that is part of the development plans as far as whether the township would ever want to improve that area. The water did lay there before. There may be a swale that runs off along the RR tracks to the south and to the north that needs to be opened up a little bit in the way of clearing out existing debris and vegetation. We can talk to the road department about that. If it's caused by the developer, we can get the developer to do that. Ms. Brown said with the rain today, she knows there's a lot of water ponding on Stover Road at Meadow's Road and there are lots of issue there. What can be done about that, the system has not been actually been approved? Mr. Birdsall said the township agreement is that none of the improvements are approved until they are all done and then there are final inspections and it comes before the township for a dedication of improvements, and that still may be a year and a half away. Ms. Brown said what about the water that is ponding right on Meadows Road? Mr. Birdsall said he'll have to get back to the Manager on that. He's not aware of water ponding on Meadow's Road in the area of Stover. Ms. Brown said what kind of time frame are we looking at for Meadow's Road being repaved? Mr. Birdsall said he doesn't have an answer for her right now. Ms. Brown said it's starting to deteriorate right now. The paving of the road probably ties into getting her driveway fixed. They'd like to get it fixed as soon as possible since there's a second cut into their driveway from UGI. There's a big mud puddle in their front yard and she wasn't very happy with UGI's timing. Some of that water is going onto Meadow's Road. There's a huge mess with the rain. When UGI put their gas lines in, they took her stakes out that marked her property. Toll Brothers went and had that surveyed and her father paid to have someone check that. Now those surveying markers are gone. What can she do about that? Mr. Birdsall said they'll make a note of that. She said she will contact UGI again. She said trenches in the township, what kind of safety do we have for that? She talked to PPL and they told her the trench that was opened on Stover Road, it was Toll Brothers responsibility to put something up to make that safe. They did not. An incident occurred and she's curious to know why it wasn't handled better. Her father's dog fell into the ditch and broke a leg. The ditch was opened for three or four weeks. It was explained to her that it was a common trench and PPL shared it with UGI and Verizon. They were all doing work in that trench, but the person responsible for it was Toll Brothers because they actually dug the ditch. Why wasn't there an orange safety fence put up as in the back of their property? The only thing that got put up was a caution tape. Is there any ordinance in the township that could have addressed that? Mr. Birdsall said the ditch you're taking about is 12 – 18 inches wide. It's not a ditch that a person would go down into. It's for the underground wires. He doesn't think the township has any rules on that. That's a good question. Certainly the contractors are at risk for their liability. He is aware on other jobs that because they do share the trench and because there are all sorts of laws about mandating, that they be allowed to share and there was a recent court case. Sometimes these trenches do stay open a long time and maybe that is something we should look at and see if there is some way to

address it. Mr. Birdsall said it was on private property. Ms. Brown said it is, but part of that trench was opened up the right-of-way to her Father's property. Mr. Birdsall said is it in the township right-of-way also? Ms. Brown said she believes so, but she may be wrong. Mr. Birdsall said they will check into that and see if there is something they can do in the way of ordering or enforcing them to try to put a protective cover on open trenches. Ms. Brown said it's now closed, but for the future, for other people. Ms. Brown said she understands the issues with the 412 corridor have been tabled for now. This goes to a bigger issue in the township. Mr. Birdsall said it hasn't been tabled. It's very active. Ms. Brown said what's the possibility of putting a light at the intersection of Apple's Church and 412? Has that ever been considered? That's a state road, she realizes. Mr. Birdsall said a sub regional study is about 90% done and he should have that in the Manager's hands for his review by the staff meeting on Tuesday. The Council has asked HEA to do a couple of traffic related tasks. One was to obtain a permit from PennDOT to put a little better radius at Springtown Hill Road for north bound traffic on 412 so that it's easier to get cars into Springtown Hill Road. There was a right-of-way being negotiated with the LSA. They have now signed off on that. We can now send in the permit for PennDOT. The PennDOT permit should go in within the next couple of days, so that's in progress. We're finalizing some plans for the traffic signal at Polk Valley Road and 412. Council also asked we look at the relationship of Skibo and Meadow's Road and the problem with the damage that is occurring to the Meadow's Road bridge because of heavy traffic and see if there was a better way to better manage traffic in that whole triangular block. That's what he'll be presenting to the Manager on Tuesday, that study. That will probably have to go through internal circulation with Police Chief, etc., etc., so maybe a couple of weeks before it ever got on the Council agenda, he doesn't know how that is going to happen, but it's very much a hot issue and you'll be hearing more about it over the next four to six weeks. She asked why a yield for the right hand turn on Meadows was put up? Mr. Birdsall said often that is put up to allow the free flow of traffic in the predominant movement. PennDOT discourages the use of stop signs for speed control. Speed signs are used when they are important for traffic safety. Wherever there is an opportunity for a right hand turn from a stop sign with a safe movement, we're supposed to be taking advantage of that to save on fuel and air pollution. As far as if you went to a full stop at that intersection, speeding would still occur on Meadow's Road, it wouldn't make a difference down by where she lives.

III. COUNCIL AND STAFF REPORTS

A. COUNCIL/JR. COUNCIL

Mrs. Yerger

- She said there has been an interest in forming a Saucon Creek Watershed Association as a sub committee under the Saucon Valley Conservancy and their first meeting is going to be at the Heller Homestead February 11, 2006 at 2:00 PM. It will be featuring a preliminary organizational meeting hopefully as well as Al Hoffert doing his fifty year retrospective of the Saucon Creek. It's really a nice little program. If you're interested in preserving the Saucon Creek, she'd encourage you to go if you have the time. Mrs. deLeon said as all of us are interested in preserving the Saucon Creek and all five Council members decided to go to this meeting, is this going be a problem? Sandy said it's already been advertised. Attorney Treadwell said it's not advertised as a Council Meeting, but no, as long as you don't make any decisions or discuss any township business.
- On Thursday, January 28 at Springtown Fire Company, there is the preliminary organizational meeting to see if there is interest in a regional environmental advisory council. That would include Springfield, Durham, LST, Nockamixon Townships, and maybe even Williams Township at some point. She has been asked to represent the township at that meeting, perhaps Tom as well.
- There is a memo in the packet from Judy Stern Goldstein about a review of riparian buffer issues. She went through the various possibilities of preserving streams and the best way to approach it, zoning riparian buffers and at the conclusion, she recommended the

Township consider increasing the width of the riparian buffer to 100 feet as measured from the top of the bank. She would like to see us move forward on that. Mr. Maxfield said would you like to do it as an additional zone or just increasing the single zone? Mrs. Yerger said she thinks she meant increasing the single zone. Mr. Maxfield said we have that as an option, we could add a 25 foot zone on it with different parameters, maybe slightly looser, if not, we can just expand it to 100. Mrs. Yerger said according to her recommendation, she thought that the multiple zone buffer system gets rather complicated and people have difficulty following it. If you do a straight 100 foot riparian corridor, non disturbance, then people know exactly what's going on. Mrs. deLeon said she agrees as they ran into that with the slope issue when they had that sliding scale. It was so confusing. Mr. Maxfield said if we're willing to do the 100 all the way, that's fine with him also. It's Judy's recommendation. Mr. Kern said what's the next step? Mrs. Yerger said the staff draw up an ordinance according to Judy's recommendations and bring it back to Council.

- She wants to note that we've been getting some recommendations on subdivisions from the Northampton County Conservation District and she has to say, she's been very impressed with their recent letters. She wondered if Jack wouldn't mind zipping off a letter to them. It looks like Autumn Sander is doing a lot of them. They are doing a heck of a job and they really have stepped up to the plate and are trying to stay on top of the developments in keeping them according to the regulations. She appreciates that they are doing a better job in the evaluations of developments.

Mr. Maxfield

Nothing to report

Mr. Horiszny

- He learned in doing some recycling work for Habitat the other day that Blinderman's in Hellertown buys scrap corrugated board and wonders if we can have Hough Associates notified of that in case they don't already know it.
- He was wondering if we should sometime consider writing letters to the Governor and our various representatives urging a bottle deposit law in PA. Maybe both Council and EAC could do that to try to clean up our State. It's something that really needs to be done and would help the State. Mrs. Yerger said we've been asked to join a regional EAC, so maybe if we get four or five EAC's to endorse it, it might have a little more clout.
- At the last meeting, we had a resolution appointing Tri C as our Environmental Consultant. We didn't do other people like Charles Eliot for the Landfill, Terry Clemons for EAC, Rich Sichler. Do we need to do more? Mr. Cahalan said normally in doing the annual appointments for the landfill consultants, which is Tri C, the others are "as needed" and Council has approved those for specific purposes. We don't need it for now. Mrs. deLeon said we talked about it at our landfill meeting, and there's pros and cons. Yes, we only appoint the official people and they are on an as-needed basis. The reorganization meeting, she thinks that they should affirm what's already there so it's in one place. Mr. Maxfield said it seems like needs would change, so you'd want some freedom if you had to alter things. Mrs. deLeon said we have the freedom because in between we can appoint anybody we want if special needs comes up depending on the application. Mr. Maxfield said it's a little odd because some of these people you may never use ever again. He likes the way they do it on an "as needed" basis. It seems to make more sense that way. Mrs. deLeon said then "as needed", so this person is appointed until he's not needed anymore. Is that what you are saying? Mr. Maxfield said no, you appoint the person for a task. Everything should be per the task. For instance, if we went through a landfill expansion and we appointed somebody to handle that expansion, once the expansion is over, we may never need that person again.
- He said we just got a letter from DEP that went to MFS and it sounds like February 11 is a magic date. I think we should urge DEP to shut them down if they don't have the proper

response by February 11, 2006. We should also ask the EPA. Mrs. deLeon said the technical deficiency they issued? Mr. Horiszny said yes, but they have a lot of them.

MOTION BY: Mrs. deLeon moved to send a letter to DEP in response to their letter dated January 11 for the deficiency letter for MSF saying that if these conditions aren't met, we would like them to shut them down.

SECOND BY: Mr. Maxfield

Mr. Kern asked if anyone in the audience had any questions or comments? Mrs. Yerger said it's important to note, they are the only fiber mineral plant left in the country that has not complied with this, so why not. It's been three years now, so it's time. Mr. Maxfield said last meeting it was reported that they had stopped, well now, they started up again and it stank pretty good today with the wind.

ROLL CALL: 5-0

Mr. Kern

- He has one request that Jaclyn be the first Jr. Council member in LS history to actually have an item to report during reports. He is mandating by the next Council meeting, you have one item to report. Jaclyn said on the youth sports for the Cheerleading and Football Association, she coaches the Youth Sports cheerleading, and she thinks it is great that the Township is sponsoring them. It's great that everyone is involved in it. Ms. Stephanie Brown said to give Jaclyn some guidelines as to what you are looking for.

Mrs. deLeon

- At the Tuesday Landfill meeting, they talked about receipt of Northampton County Municipal Management Plan revision dated July 2005, which we received in November. Is anyone familiar with that document? We weren't sure if there was a deadline. Could Mr. Cahalan find out if there is a deadline to that?
- We talked about this a long time ago, but what does everybody think about, having the address of Lower Saucon Township, 18015? Is there any law prohibiting us from doing that? Attorney Treadwell said the post office has to approve it. She asked if we could ask the post office to approve that? If you live in LST and your zip is 18015 or 18055, can we use our Township name? Attorney Treadwell said he thinks you need the approval of the postal service. Mrs. deLeon asked if we could find out if there was a process? Mr. Cahalan said sure.
- It was very nice we got a memorandum from Bill Csaszar's for his year end report. At one time they had asked all boards to submit annual reports. She really thinks that should be done. She appreciated getting that.
- There was a letter from Keystone Consulting and it's regarding Woodland Hills, Section 2, Lot 18 on behalf of Mr. Patullo, I am respectfully requesting an unlimited continuation of a variance request. Doesn't that mean deemed approval? Attorney Treadwell said he doesn't recall seeing that letter, but if it's an unlimited extension, then there's never a deemed approval. We should probably put it in the computer for a month or two down the road, and at some point, say, that's enough, either withdraw it or put it on a hearing list, but there's no deemed approval risk if they've given us an unlimited extension. Mrs. deLeon said why would they do that and then withdraw the application, what would be the consequences? Attorney Treadwell said probably because they don't want to come back and pay another fee. If they withdraw it now, they come back and file again, they'd have to pay again.
- There was a letter from Jack about the Parks and Recs development rights. She didn't understand where that came from. Would that interfere with any plans for a recycling center? Mr. Cahalan said no, actually it would just keep the piece of property open for open space. Mrs. deLeon said open space doesn't have a building on it, and if you do a recycling center, you have a driveway, etc. Mr. Cahalan said it could be developed. You could get into what the uses of the property could be, but he thinks the point of the request was it remain in its current state and not be subject to any development pressures if its adjacent to the park. Mrs. deLeon said it's owned by Hellertown. Mr. Cahalan said the request was to obtain those

rights from the owner, which would be Hellertown Borough. Mrs. deLeon said she was surprised, she wasn't expecting to see that. Mr. Cahalan said it was just to see if it could in the future remain as open space. Mrs. deLeon said she understands the concept, but they had an application before us and it didn't go anywhere because of the history of the site.

Ms. Rasich

- Nothing

B. TOWNSHIP MANAGER

- He said Council approved in the 2006 budget, funds to pay for a furnace at the Lutz-Franklin Schoolhouse. The gas furnace has been installed by Hanaberry HVAC and he needs Councils approval to reimburse the LS Historical Society for the cost of the furnace and the installation. It came out to $6,415. Council had budgeted $6,000 in Minor Equipment line items, so he needs approval to spend $6,000 out of that line item, 452.750, and the remaining $415 will come out of the contingency line item, 493.000.

MOTION BY: Mr. Kern moved for approval as stated above by the Manager.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

- The Zoning Officer gave them a memo pointing out that the township zoning ordinance lacks enforcement ability for work times on construction sites, start-stop times We don't have any specific hours in the zoning ordinance that says the work will commence at 7 AM and be done by 5 PM, something along that line. We do have some language in there under the neighborhood protection section, the noise type of ordinance that we have been able to use to deal with specific situations. What he is recommending is that Council may want to consider and ask us to look into coming back with a stand alone ordinance that would set down specific work hours for construction projects. That could be more easily enforced by the Zoning Officers and/or the PD. Mr. Cahalan will take care of this.
- The EAC elected Tom Maxfield as their Chairman at their January meeting and that needs to be approved by Council.

MOTION BY: Mr. Horiszny moved to approve Tom Maxfield as the Chairman of the EAC.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 4-0-1 (Mr. Maxfield – Abstained)

C. SOLICITOR

- Nothing to report

D. ENGINEER

- He already gave an update on the traffic study earlier.
- The City of Bethlehem has asked for comments on their new Act 537 plan. He would ask that you reserve some time on the next agenda to discuss that a little bit or at least allow a brief presentation. The LSA may be looking at it also, but eventually it's going to need a response by Council.
- With regard to the landfill, there was a question about the methane gas. We have been trying to monitor that. We have only noticed it on very rare occasions - once out of about six or seven visits or drive bys that our Sewage Officer has undertaken. We have been trying to watch out for that. Scott has made inspections and tried to pin the landfill people down. They did find a pipe that had a plug that had been deflated. It had actually failed. It had construction that was supposed to be in there that you pump up, called an inflatable pig, and actually closes off the gas that might leak out of that pipe. They found one that

had failed and replaced it. They have put a seal around another location that there was some smell. All those occurred in the last two weeks Mrs. deLeon said we have a landfill meeting tomorrow afternoon and at their Tuesday meeting they asked HEA to put together a list of questions, and that's one of them.

- The storm water run off issue they have looked at, they've talked to DEP about it. What they believe has happened during the October storm was one of the said basins that they have installed does seem to be built properly, overtopped. It was a very excessive storm and since that time the landfill people have cleaned out the bottom of the pond. What may have happened is that the sediment basin filled partially with sediment and possibly reduced the capacity of the pond somewhat. He doesn't know if it was full of sediment more than the stake elevation, in other words, as a design fill elevation that sediment is allowed to build up because that's the design of the basin to catch the sediment. Whether or not when that flooding occurred, that had been exceeded. The landfill doesn't have records, but they have restored it to the original grade and there's no way that any design can take care of a storm almost in excess of a 100 year storm condition without coming over the top. When it does come over the top, in the design spillway, it is apt to create a 100 year flood condition downstream which from the evidence of the stream corridor, it does look like that was a heavy flood event that would occur anyhow in a major storm. Whenever the soil is disturbed, the runoff volumes are always much larger than a stabilized condition.
- The Township is working with Upper Saucon on the regional recreation open space plan and he would ask that the Township consider reinvigorating their official map. If you or the PC or the EAC would want to take a look at the definition of official plan in Act 247, there may be an opportunity to amend the official map of the township to include some of the areas that you are thinking about designating as open space corridors and protection areas that are important for you to be looking at in the way of just putting developers on notice that these are sensitive areas that you are going to want considered. There are some provisions in Act 247 that allow you an opportunity if the developer is not offering those as conservation areas the way you want, that will give you an opportunity to possibly negotiate purchase in the meantime and of course, stall development for a period of time. He doesn't know the forcibility of that through the court system as far as what Linc would be able to advise you on, and any court cases that have defined that procedure a little bit better. Some of our communities are using that as a tool and he wants to make sure that you are reminded that as you get closer to defining which properties, that you might want to consider updating your official map. Mrs. deLeon said is there time to do that now? Mr. Birdsall said look at Act 247 and see what it says first and maybe get a little input from Linc or the Manager to see what they think.

IV. <u>ADJOURNMENT</u>

MOTION BY: Mr. Horiszny moved to adjourn. The time was 10:52 PM.
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Submitted by:

Mr. Jack Cahalan	Glenn Kern
Township Manager	President of Council