

**I. OPENING**

**CALL TO ORDER:** The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, February 3, 2010 at 7:03 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

**ROLL CALL:** Present – Glenn Kern, President; Tom Maxfield, Vice President; Priscilla deLeon, Sandra Yerger, Ron Horiszny, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Brien Kocher, Township Engineer; Linc Treadwell, Township Solicitor; Judy Stern Goldstein, Township Planner. Absent: Kimberly Kelly Jr. Council member.

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)**

Mr. Kern said Council did not meet in Executive Session between last meeting and this meeting.

**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 Leslie or Jack or call the Township office. Please state your name and address. If you can’t hear, please let us know. You can check the minutes on the website, which is lowersaucontownship.org.

**III. PRESENTATIONS/HEARINGS**

**A. RESOLUTION #32-2010 – PUBLIC HEARING – AUTHORIZING PURCHASE OF CONSERVATION EASEMENT ON MEASE PROPERTY**

Mr. Kern said Resolution #32-2010 has been prepared to authorize the purchase of a conservation easement on the Mease property.

**RESOLUTION #32-2010  
A RESOLUTION OF THE COUNCIL OF LOWER SAUCON TOWNSHIP  
AUTHORIZING THE PURCHASE OF A CONSERVATION EASEMENT FOR A  
PORTION OF BUCKS COUNTY TAX MAP PARCEL NO. 42-6-28**

**WHEREAS**, the Township Council of Lower Saucon Township recognizes that the Township contains open space, natural and historic areas, agricultural lands and other culturally important areas that contribute to the quality of life and economic health of our community which are worthy of preservation and protection; and

**WHEREAS**, the Township prepared and adopted an Open Space Action Plan on April 4, 2007; and

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**WHEREAS**, the Second Class Township Code, 53 P.S. 66503, and the Open Space Lands Acquisition and Preservation Act, 32 P.S. 5001 et.seq. permit Lower Saucon Township to acquire interests in real estate; and

**WHEREAS**, the Open Space Sub-Committee of the Environmental Advisory Council, in accordance with the Open Space Plan, has recommended that the Township purchase a conservation easement from Donald G. and Elaine M. Mease totaling 20+/- acres; and

**WHEREAS**, this Resolution is intended to carry out the foregoing described purpose and to provide authorization for the execution of the documents necessary to acquire the Easement.

**NOW, THEREFORE, BE IT RESOLVED** by the Lower Saucon Township Council as follows:

1. Lower Saucon Township shall acquire a conservation easement for a portion of the property known as Bucks County Uniform Parcel Identifier Tax Parcel No. 42-6-28 as more fully identified in the Plan attached hereto as Exhibit "A".
2. The proper Township officers and/or agents, including the Township Solicitor and Township Manager, are hereby authorized to prepare such documents and instruments as may be necessary for the acquisition of a Conservation Easement across that portion of Bucks County Tax Map Parcel No. 42-6-28 and to do all other things necessary to acquire said Easement for a price of \$240,000.00.

**MOTION BY:** Mrs. deLeon moved to open the public hearing.

**SECOND BY:** Mr. Horiszny

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

Attorney Treadwell said this is a public hearing to discuss the purchase of a conservation easement on the Mease property. This public hearing is required before you spend any open space money. The Mease property is about 44 or so acres in Springfield Township, Bucks County and they are buying a conservation easement on that portion. The proposal is for Lower Saucon Township to purchase a conservation easement on the portion that's located in Lower Saucon, Northampton County. The price would be \$12,000.00 per acre pursuant to the appraisal that we have. There is a question at the moment that we have conflicting descriptions as to how much land 20 acres or 14 or so acres. The resolution has been drafted to authorize the purchase of up to 20 acres at a price of \$12,000 per acre, and we will nail down the exact acreage within the next couple of days. The purpose of this hearing is to ask for any public comment or discussion to purchase this conservation easement.

Mr. Kern said we will open this up to the public for any comment regarding this issue. Dave Chapman of Orchard Road said he lives next to the property. He wanted to know if you could define what a conservation easement is so he is clear on it. Attorney Treadwell said the intent of the conservation easement is to restrict any development and promote the conservation and preservation of all the natural resources that are on that property. Mr. Chapman asked if there are roughly seven acres that are in Lower Saucon Township? Attorney Treadwell said that's the question he brought up earlier. The appraisal we have identifies twenty acres in Lower Saucon Township. The survey that was performed by an engineering firm hired by Bucks County says about fourteen are in Northampton County, so we need to clarify that. Mr. Chapman said this is Orchard Road and Moyer Road. Council said yes. Mr. Chapman said his understanding is that there is roughly seven acres that was previously sold to a buyer in Lower Saucon Township and they had plans to put a house on it. He doesn't know where that stands. A woman who he thought

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was the buyer comes out and walks on a regular basis out there. Attorney Treadwell said the person who purchased it? Mr. Chapman said yes, that's his understanding. Mr. Kern said you think the conservation easement property is purchased by someone else? Mr. Chapman said he hasn't followed this real closely. He has some documents and information from a couple of years ago when Mease went to the Springfield Township meetings. It seemed very quiet. The "For Sale" signs disappeared on the lot that directly borders him, and then one day a lady showed up and she was walking out there. We talked to her and she said they purchased it and planned to put a house on it. There was perk testing done. He hasn't honestly seen her in the last month. That's why he came tonight as he was curious to know what was going on with it. Attorney Treadwell said the title search identified about 65 acres that Mr. and Mrs. Mease owned in both Springfield, Bucks County and Lower Saucon, Northampton County. That was done within the last six months. He will certainly ask the question. Mr. Chapman said this may be a different piece than what he's thinking about. Mr. Chapman said is it bordered by Orchard Road. Mr. Maxfield said there was another property next to that property that was up for subdivision, and he can't remember the name of the development. Mr. Chapman said at one time it was Summit Farms and then later on it changed to Manderino. Mr. Maxfield said this is different. He showed Mr. Chapman the map.

**MOTION BY:** Mr. Horiszny moved to close the public hearing.

**SECOND BY:** Mrs. Yerger

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

**MOTION BY:** Mr. Maxfield moved for approval of Resolution #32-2010, depending on the final determination of the acreage.

Attorney Treadwell said it's in the resolution. It's up to twenty acres, and may be less.

**SECOND BY:** Mrs. deLeon

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

**B. RESOLUTION #33-2010 – PUBLIC HEARING – AUTHORIZING PURCHASE OF OPEN SPACE LANDS FROM CHRIST LUTHERAN CHURCH**

Mr. Kern said Resolution #33-2010 has been prepared to authorize the purchase of open space lands from Christ Lutheran Church.

**RESOLUTION #33-2010  
A RESOLUTION OF THE COUNCIL OF LOWER SAUCON TOWNSHIP  
AUTHORIZING THE PURCHASE OF OPEN SPACE LANDS FOR A PORTION OF  
NORTHAMPTON COUNTY TAX MAP PARCEL NO. P7-24-1**

**WHEREAS**, the Township Council of Lower Saucon Township recognizes that the Township contains open space, natural and historic areas, agricultural lands and other culturally important areas that contribute to the quality of life and economic health of our community which are worthy of preservation and protection; and

**WHEREAS**, the Township prepared and adopted an Open Space Action Plan on April 4, 2007; and

**WHEREAS**, the Second Class Township Code, 53 P.S. 66503, and the Open Space Lands Acquisition and Preservation Act, 32 P.S. 5001 et.seq. permit Lower Saucon Township to acquire interests in real estate; and

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**WHEREAS**, the Open Space Sub-Committee of the Environmental Advisory Council, in accordance with the Open Space Plan, has recommended that the Township purchase a portion of land from the Christ Lutheran Church totaling 6+/- acres and containing two ball fields; and

**WHEREAS**, this Resolution is intended to carry out the foregoing described purpose and to provide authorization for the execution of the documents necessary to acquire the Easement.

**NOW, THEREFORE, BE IT RESOLVED** by the Lower Saucon Township Council as follows:

1. Lower Saucon Township shall acquire a portion of the property known as Northampton County Uniform Parcel Identifier Tax Parcel No. P7-24-1 as more fully identified in the Plan attached hereto as Exhibit "A".
2. The proper Township officers and/or agents, including the Township Solicitor and Township Manager, are hereby authorized to prepare such documents and instruments as may be necessary for the acquisition of a portion of Tax Map Parcel No. P7-24-1 and to do all other things necessary to acquire said land for a price of \$125,000.00.

**MOTION BY:** Mr. Horiszny moved to open the public hearing.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

Attorney Treadwell said this is a public hearing to get public comment on the proposed purchase from the Christ Lutheran Church. It consists of the ballfields that are currently located there that are being leased to the Little League and the proposal is to purchase approximately six acres from the church for \$125,000.00.

Mr. Kern asked if there was any public comment regarding this? Mrs. deLeon asked for a little bit of background. Attorney Treadwell said we talked about this for awhile. We had an appraisal done. The appraised value was \$125,000.00 for the six acres which consists mainly of the two ballfields located on the church property. Mr. Cahalan said the ballfields are under lease to the Hellertown-Lower Saucon Little League. They've been used for many years by the league and we intend to honor the lease and continue to use the fields for baseball. The Township will maintain the fields and will make some improvements, particularly access off of Mockingbird Hill Road which will alleviate some of the complaints about parking from residents who live nearby. Other amenities will also be put there. It's going to add to the inventory of playing fields and park inventory. The Parks and Recreation board heartily supports this. Mr. Kern said there are two baseball fields there. One is more of a senior league and that one is used heavily. The second one was constructed years ago and fell into disuse. It's more of a major field dimension. Once that is refurbished, and it's not going to take a lot of work as everything is there, it will be a real boon as it will take pressure off of Polk Valley Park. It's a relief to the Little League as it puts these fields into their domain. It's really a good thing. The parking issue always has been an issue and the Township will be constructing a parking lot behind the cemetery which will also tremendously help the spectators and the Mom's and Dad's.

**MOTION BY:** Mr. Horiszny moved to close the public hearing.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

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**MOTION BY:** Mr. Horiszny moved for approval of Resolution #33-2010.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

Attorney Treadwell said this is not an item on your agenda, so with permission, Hanover Engineering prepared a minor subdivision plan to divide off the six acres that the Township is purchasing which needs to be recorded before we can move ahead with this transaction. It was in front of the Planning Commission on January 21 and they approved the minor subdivision. With your permission, he would like Council to vote on it tonight as there are no conditions. The plan was prepared by Hanover, and if you approve it, we can have the church sign it and move ahead with settlement. Mrs. deLeon said we just voted to close the hearing and didn't open it up to the public, which vote comes first? Attorney Treadwell said you can vote on the resolution, but he just wanted to let you know that's another item. A plan of the ballfields and land was hung up for the public to see. It subdivides the six acres so the Township can acquire it.

Mr. Kern asked if there was any public comment regarding the minor subdivision plan? It defines the outline of the two ballfields and where the parking area will be. No one raised their hand.

**MOTION BY:** Mr. Maxfield moved to approve the subdivision plan as prepared by Hanover Engineering.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

**C. ORDINANCE #02-2010 – SPEED LIMIT REDUCTION ON PORTIONS OF LOWER SAUCON ROAD – PUBLIC HEARING AND CONSIDERATION OF ADOPTION**

Mr. Kern said Ordinance No. 02-2010 has been advertised for a public hearing and consideration of adoption to amend and revise Chapter 170, Vehicles and Traffic, of the Code of the Township of Lower Saucon to provide for the reduction of speed limit on portions of Lower Saucon Road.

**MOTION BY:** Mr. Horiszny moved to open the public hearing.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

Mr. Cahalan said this is an ordinance that will codify speed limit reductions on Lower Saucon Road in two separate areas. Previously, we had received a report from PennDOT that they had done a traffic study on the upper portion of Lower Saucon Road, specifically Segment 80, which runs between Valley View Road and Redington Road, and they authorized the reduction in speed limit in that area. At the time Council was considering that, they also asked the Police Department in the Township to do speed studies on the lower segment of Lower Saucon Road, the section from the intersection at Wassergass at Bergstresser's store to the Springfield Township line near Polk Valley Road. Those traffic studies were done. They were reviewed by the engineer and he recommended the speed limit on that segment of the road also be reduced. This ordinance then will authorize the speed limits in those two sections to be reduced to 30 MPH, and it's been advertised and ready for Council adoption.

Mr. Kern asked if anyone in the public had any comments? Allan Johnson said he lives on Martins Lane which intersects with a portion between Wassergass Road and Bucks County, and he supports the ordinance to reduce the speed limit from 40 MPH to 30 MPH. He thinks it will help protect the residents who use that part of the road who jog on and walk their dogs because there are no

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shoulders or sidewalks out there. It will be a good idea to reduce vehicle accidents and to protect the population who use the road for walking.

Beverly Wolf said she supports it also, but how are you going to enforce it? Where she lives on Lower Saucon, it's 40 MPH and they do 50 and 55 MPH, flying by all the time and she has never seen anyone get a ticket. Mr. Kern said enforcement is the key. Ms. Wolf said if you don't enforce it, it's not worth anything. Mr. Kern said when they are caught for speeding, the difference in the ten mile an hour difference will add up on the fine and that gets people's attention when the pocketbook is involved. Mr. Maxfield asked if the portion by Ms. Wolf is PennDOT? Mr. Cahalan said yes. Mr. Maxfield asked if that was enforceable by our Police Department? Mr. Cahalan said yes. Mr. Maxfield said could you please relay this to the Police Chief? Mr. Cahalan said yes, they will. Mr. Cahalan said on the ordinance you have in front of you, the enacted and ordained date should be corrected. When the information was received from PennDOT about the upper portion, that had been instigated by a resident who lived in that area and requested the traffic study. She also requested, through PennDOT, that equestrian crossing signs be erected on the road. He has written to her and asked her for more specific information so you could consider that. He hasn't heard anything from her, so has no recommendation on that request.

**MOTION BY:** Mrs. Yerger moved to close the public hearing.

**SECOND BY:** Mr. Horiszny

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

**MOTION BY:** Mr. Horiszny moved for approval of Ordinance #02-2010 with the date correction of February 3 versus March 4.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone had any questions? No one raised their hand.

**ROLL CALL:** 5-0

**IV. DEVELOPER ITEMS**

**A. GREENWOOD COURT – BLACK RIVER ROAD – EXTENSION TO COMPLETE IMPROVEMENTS**

Mr. Kern said the Developer is requesting a one year extension to complete the improvements associated with their subdivision.

**GREENWOOD COURT EXTENSION**

The Lower Saucon Township staff recommends that Township Council approve an extension until March 4, 2011 for completion of improvements at the Greenwood Court Subdivision. This approval is subject to the following conditions:

1. The owner/developer shall enter into an Extension Agreement with the Township satisfactory to the Township Solicitor and Township Council.
2. The Improvements Security shall remain in full force and effect until project completion or April 4, 2011, to the satisfaction of the Township Solicitor.
3. The owner shall pay any outstanding plans and appeals account invoices owed to the Township.

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4. The Township Engineer is hereby directed to inspect the erosion and sedimentation controls for the project and notify the developer of any deficiencies. The developer must correct any deficiencies noted by the Township Engineer within 60 days of receipt of his report.

Mrs. deLeon asked if there were any outstanding issues? Mr. Kocher said no.

**MOTION BY:** Mrs. deLeon moved for approval for an extension to complete improvements for Greenwood Court – Black River Road, per the staff recommendation dated February 3, 2010.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

**B. COTTAGES AT SAUCON VALLEY- MOUNTAINVIEW DRIVE – EXTENSION TO COMPLETE IMPROVEMENTS**

Mr. Kern said the developer is requesting a one year extension to complete the improvements associated with their subdivision.

**COTTAGES AT SAUCON VALLEY EXTENSION**

The Lower Saucon Township staff recommends that Township Council approve an extension until March 14, 2011 for completion of improvements at this development. This approval is subject to the following conditions:

1. The owner/developer shall enter into an Extension Agreement with the Township satisfactory to the Township Solicitor and Township Council.
2. The Improvements Security shall remain in full force and effect until April 14, 2011, to the satisfaction of the Township Solicitor.
3. The owner shall pay any outstanding plans and appeals account invoices owed to the Township.
4. The Township Engineer is hereby directed to inspect the erosion and sedimentation controls for the project and notify the developer of any deficiencies. The developer must correct any deficiencies noted by the Township Engineer within 60 days of receipt of his report.

Mrs. deLeon asked if there was any outstanding issues and she knows there is nothing going on, so how many years do they have with nothing going on? Mr. Kocher said you decide every year at this time. Attorney Treadwell said the way the subdivision agreement is written, it's a year at a time, so each year they need to come back to Council to ask for an extension. If the improvements are not substantially completed within five years, then they would be subject to any new ordinances. Mrs. deLeon said if we keep giving them an extension, the five years never kicks in. Attorney Treadwell said the extension builds up to the five years. Mrs. deLeon said how many years do we have before the five years? Attorney Treadwell said what is the date of their approval is the question, which he doesn't have in front of him. Mr. Kocher said they will argue that their improvements are substantially complete. Mr. Maxfield said they put in storm water and roads. Mrs. deLeon said that's substantial, but no houses. Mr. Kocher said not that he's aware of. He hasn't been out there. Mr. Maxfield said he thinks he saw one go up at the cul-de-sac.

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- MOTION BY:** Mrs. deLeon moved for approval of extension to complete improvements for Cottages at Saucon Valley.
- SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 5-0

**V. TOWNSHIP BUSINESS ITEMS**

**A. IESI – DISCUSSION OF LANDFILL ISSUES**

Mr. Kern said Township Landfill Engineer, Jim Birdsall, would like to review the items contained in his January 26, 2010 letter that the Landfill Committee recommends the Township request clarification on from PA DEP.

Mr. Birdsall said the letter is a recommendation from the Landfill Committee of the Township to ask Council to write a letter to DEP on four issues. They are outlined in the letter. What has been happening over the last year primarily has been IESI's effort to find leaks in their liner system. The Township Landfill Committee feels they are not moving quickly enough. There was a deadline of January 5th that was missed. IESI took some measures to control and identify their sources, but he and the Committee feel they should do it on a more timely fashion. The most important issue is item no. 3 with regard to other less important issues which are we are not getting the correspondence from DEP or IESI that we should expect for completing our files. The one item in particular, no. 2, is that between the engineer for IESI and DEP, they have approved a change in the liner system under the landfill without scrutiny and review by the Landfill Committee and without what they feel is a due process for a minor permit modification. They would just like more information from DEP on what's happening, why it's happening. We do see after the fact approvals from DEP, so we think IESI is moving in the right direction with DEP's blessing, and of course the monthly reports don't report any violation, so we believe that they are following the State rules, but the Landfill Committee feels it would be better if they were brought in on the beginning of these things to have a chance to comment on them and offer our comments to DEP and IESI. Mr. Kern said you are saying there was some liner work done on the liner itself? Mr. Birdsall said correct. This is the second issue he has mentioned. In the new area, they are installing the new liner. This is not where the leak is occurring. They are installing a new liner and they changed the design configuration without letting us know. Mr. Maxfield said is that design configuration stipulated in the host agreement? Mr. Birdsall said not in the host agreement. What is stipulated in the host agreement is they are supposed to go by the plans that the Township approved. That showed liner system A and they are not installing liner system A. Mrs. deLeon said there may not be a problem with the way they did it, but we want to know. The plan is different. Mr. Birdsall said we did see some earlier back and forth pieces of letters and dialogue that they were talking about it and DEP was asking for more information on the capacity of the sub drainage system to carry the leachate down to the low points and we saw they were being responded by Martin & Martin, but we felt nothing in the early or later stages were brought to the Township in the way of the actual design configuration. Mr. Kern said when you were aware of it, did you notify the landfill? Mr. Birdsall said that's a good question. He doesn't think other than the monthly meetings that part of our Committee has with the landfill, he doesn't know if we actually reached out to the landfill and said, please can we see the full package? Mrs. deLeon said they talk about this at the monthly meetings and she knows they did at this last one and the month before that. If the Council doesn't take any action, the Committee just keeps talking about it on a monthly basis. Mr. Maxfield said when the letter from DEP, Mr. Dudick, came, it gives a deadline of January 5, would they possibly give an extension they didn't tell us about or was it just lapsed and nobody did anything about it? Mr. Birdsall said he doesn't think it lapsed without anybody thinking about it. The latest set of notes he saw was "Department with IESI sometime in mid-December and they talked about this very issue". DEP is trying to be on top of it, but IESI hasn't

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met their obligation. With regard to no. 4, that's more of a paperwork thing, but it's important for us to keep aware of what the QA/QC control plan is. That's the quality assurance and quality control plan. They've been making some changes to certain pages in that plan and we'd like to make sure we are in the loop so either of the host inspectors who go out there can be alerted as to what the procedures are as to what they should be using; and for our consultant to have an opportunity to say yes, but we would ask that you look at this idea. We don't have that opportunity if we don't see these things in their process of development. With regard to item no. 1, this is a recommendation that DEP not allow the landfill folks to stop monitoring leachate management chambers 6 and 7. Right now, in the last six months, they've been monitoring 6, 7, and 8 because they are in identification of high flows of leachate. The one repair they made, it looks like they may have substantially cut down on leachate that is entering leachate 6 and 7 and we're just concerned that DEP will allow them to stop monitoring that and only concentrate on 8. No. 8 is still showing a bad sign of leaking. We're just asking they keep that open. There's always flow monitoring into these things, so we know the number of gallons each month. It's not so much the gallonage as the additional requirement that DEP was imposing, or IESI voluntarily did it, but not only monitoring the volume as they are required to, they are also checking the quality of the flow, the parameters of contaminants within the flow. We feel that's very important as it helps identify where the flow is coming from. It has certain parameters that are not reflective of waste, then it may be more of the rain that's coming in through the one edge and then getting down underneath the landfill. If it's got more contaminants, then you can tell its coming more from the center of the landfill. We would like to see the testing, as well as the volumes, be kept up until the entire problem is solved. Mr. Kern said you are looking for Council approval to send a letter to DEP? Mrs. deLeon said yes, the Landfill Committee would really appreciate that. She asked if we ever got the July 12, 2009 letter? Al from the Landfill said he was going to mail it. There might be key issues in the attachments to that July letter that might help this, but we never got the letter so it was kind of hard to keep up on it. Mr. Kern said are you suggesting that a Hanover letter be sent? Mrs. deLeon said it should come from the Township. Mrs. Yerger said there are four concerns, so the Township can just ask for a response for those concerns. Some of the wording needs to be tweaked on the information that Laressa got from Mr. Dudick at DEP.

- MOTION BY:** Mr. Maxfield moved for approval to send a letter to DEP referencing the concerns expressed in Hanover Engineering letter of January 26, 2010.
- SECOND BY:** Mr. Horiszny
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 5-0

**B. MEADOWS ROAD BRIDGE DISCUSSION**

Mr. Kern said Council would like to discuss with staff and consultants the status and options for the Meadows Road Bridge.

Mr. Cahalan said you've requested this to be put on the agenda. We can update you on a couple of issues that were brought up. One of the issues that had been discussed and led to this request to put it on the agenda had to do with weight limit. We had conversation with the Steve DeSalva from the County. The County owns the bridge, and we requested that the County lower the weight limit to the lowest permitted amount. We did get a response from Mr. DeSalva back in September. The response that was received stated that during the last inspection, the County performed in the spring of 2008, no further significant deterioration, stone, mortar or cracking was detected, and per PennDOT guidelines on bridge posting, they could not justify reducing the existing 10 ton weight limit at that time. He stated that they recently performed a pavement resurfacing project on the bridge to mitigate water ponding on the roadway by directing the runoff to the ends of the bridge. He indicated this work had no effect on the posting of the bridge. Mr. Kocher had a more up-to-date conversation with Mr. DeSalva about the weight limit. Mr. Kocher said he called Keller

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Consulting who is the County's consultant and does the inspection work. They did indeed confirm the lowest weight limit they felt they could justify on the bridge was 10 tons based on PennDOT's criteria. They won't go to 5 tons. They do inspect it annually and if they do find an issue, during inspection, they'll recommend at that time that it be changed. Mr. Kern said that's good news as they consider the bridge safe. Mrs. Yerger said it's also good to hear if they do see deterioration that they will consider lowering it at that point. Mr. Kern said is there any possibility of restricting trucks all together? We had mentioned over the years putting up a steel pole that would prohibit trucks from going through. Mr. Kocher said they could look at restricting truck traffic based on the alignment of the road irrespective of the weight limit. Regarding the bar, the only application they are aware of by PennDOT is a height restriction like a covered bridge that they officially sanction. They did contact the District Bridge Engineer and they are looking to see if they have anything they've ever used to help us out as a physical restriction. We'll see if they get back to us. Mrs. deLeon said they care about covered bridges and want to see them preserved, but this is unique also. You travel around the state and how many of these four arched bridges do you see. She's hoping this becomes an example of County preservation.

Mr. Cahalan said the Council had asked him set up a meeting with the County Executive and he sent a letter to John Stoffa on January 5, 2010, requesting he set up a meeting with his representatives and indicated we would have representatives here, Council, the Engineers, and a Township resident. He has not heard back from Mr. Stoffa about that meeting. He will follow up with him by phone and email.

Mr. Cahalan said they had a previous meeting with Mr. Stoffa and Glenn, Priscilla and Jim attended on December 8, 2006. At the Council meeting on February 7, 2007, Council made a motion that the following Township decisions and requests be forwarded to you. "The Township request that the County own and maintain the existing stone arch bridge for weight restricted one way vehicular traffic. If this option is not acceptable and the County determines that a new bridge must be built, the Township hereby transmits the following decisions and requests. Township decision 1 - the Township does not want Meadows Road closed to all vehicular traffic, but does support utilization of a bridge using one way west bound vehicular traffic. 2. The Township is unwilling to take on the ownership and maintenance of the stone arch bridge with the continued utilization of vehicular traffic. Township request 1. You rerate the bridge to a lower weight limit as soon as possible. The Township is in the process of purchasing and installing additional advance warning signs for the weight limit on this road and wants to purchase these signs with the lower weight limit. 2. The Township requests that you study two possible options or more for the replacement of this bridge as follows: a. The County preferred design, even if that design would involve the removal of that existing stone arch bridge. b. A design that will save the existing stone arch bridge as a pedestrian bicycle pathway. It is recognized under this option that the County would be expecting the Township to take over ownership and maintenance of the stone arch bridge. It is requested that the schematic design work provided for both these options provide location and information to allow the Township and adjacent residents to evaluate the approximate location and approximate elevation of the bridge and road approaches. It is also requested that both options and any other options you may be reviewing include a design that is appropriate for the historic setting of the area and is stone faced. While you are proceeding with these studies, the Township is proceeding with research to determine whether or not the stone arch bridge could be eligible for registration on the PA or Federal Register of Historic Structures." That was the position that Council formally took with the County back in 2007. Mr. Kern said subsequent to that and the historical research, what were the results of the historical research? Mr. Cahalan said that did not pass. They didn't consider it because of the alterations. Mrs. Yerger said part of it was the alterations and part of it was they didn't think it had any unique character. It was a rubble bridge and that had a lot to do with it. There were alterations on it by the County over the years, so it did not qualify. Mr. Kern said over the years there was a report that there's a restoration specialist who feels in certain circumstances it's more cost effective to restore the bridge than it is to knock a

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bridge down and build a brand new one. Mr. Cahalan said if you are referring to the gentlemen that Stephanie put us in contact with, Mr. deGruchy, we asked him to provide us with a report and he did do that back in July 2008 and we sent a copy of his report off to County for their consideration. He does say "if the goal is to make the bridge a two lane bridge, then I think it is possible to document the current position of all the stones and utilize them in reconstructing outer walls, full wall stone arch veneers, and parapets, to be laid in a similar fashion as to what currently exists. This approach would be sympathetic to the aesthetic value of what now exists and to honor the hands of the original builders, even though the sub structure would actually be concrete and steel". Mrs. Yerger said it sounds like a re-creation. Mrs. deLeon said a modern re-creation. Mr. Cahalan said he made some observations and says "taking into account a preservation model can be achieved restoring it as found and remaining as a one lane bridge". He's not sure if he didn't give several different options. Mr. Kern said that would be his main thrust with the County to have a bona fide report that could be handed to them saying this is a possibility. If it needs to be beefed up with some engineering, maybe Hanover Engineering could beef it up and determine as far as the ethnicity of the report. The County might realize there is more than one option. Mrs. deLeon said would Hanover be able to put that together? Mr. Kocher said the County does realize there is more than one option. The engineer that he spoke to said the bridge could be rehabbed, but the problem is that the County believes with the 10 ton weight limit, that bridge is safe and they are using their resources to address bridges in the County that are not safe. It hasn't gotten to the level yet, "let's put a plan together because it's safe as posted" according to them. If it ever got to the funding step and it was on the TIP (Transportation Improvement Plan), but it might have gotten knocked off the list. Mrs. deLeon said why didn't we know that? Mr. Kocher said it's not our bridge, so he doesn't know that there's a notification. Mr. Maxfield said it could have just been a change in funding. Mrs. deLeon said she realizes that's what took it off the list, but with the Narrows, it was really hard to get near that list. Mr. Kern said it's dropped down on the priority. Mr. Kocher said he didn't ask him what other bridges were ahead of that one, but he did say there are other bridges in the County that are going to take the resources before that one. Mr. Maxfield said restoration of the bridge might be something more than what we are thinking about. Like the changes that were made to the bridge, the metal plates with the bolts running through the bridge, they are not original to the bridge, so a restoration of it, we'd almost have to decide at what point we started back to, and it may get more involved than you think. It may be more involved with the County than we think. Mrs. Yerger said it's going to come down to what the cost is. If it's cost effective for them to do this or equally cost effective for a replacement, they are going to go with what is going to be the most cost effective way. Mr. Kern said they are not going to do the research themselves to find out if it's more cost effective to do it, but if we can generate the report based on deGruchy, and maybe Hanover Engineering look it over and making sure it's actually doable. Then we can meet with the County and present that. Mr. Maxfield said if we were going to present them with some sort of restoration option, we would probably have to decide what it looks like first or how many options we can present them with. We don't even know for sure if the cement caps on the sidewalls, were those original or not. He would guess no, but they are necessary. That's the first step, deciding what we would like it to look like, a historic looking bridge. Mrs. deLeon said we need to be prepared when we go to this meeting, and she's kind of glad it got postponed, because if it would have been two weeks ago, we wouldn't have had a plan. Now the engineers can look into this. Mr. Kern asked Mr. Birdsall if anything they are saying makes sense? Mr. Birdsall said they certainly could get involved. To make a legitimate case, it would take more than just three hours jotting down some numbers. Whatever you could do to keep pushing the County Council or the County Executive and their bridge department to do, the better off you are. Otherwise, they will blow us off and say it wasn't very carefully thought out. Mrs. deLeon said when you think about that bridge and see the bar things, and some of the changes, just because that wasn't there when it was originally built, doesn't mean it's not historic. It transformed over the years to carry different weight levels and to support different machines or vehicles through the years. It adds character to the bridge. She remembers the Heller Barn with the star going over the arch, and that was there for a reason also. Mrs. Yerger said one of the difficulties she sees, and nobody is arguing that perhaps

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this can't be done, she doesn't know that answer. She's sure some of these are wonderful restoration projects, but in her opinion, what they are going to need to do is go to the County and say if you do option A, it's going to cost you this number. If you do option B, it's going to cost you this number and so on. You have A, B, C and D, and we have to prove that one or more of possible restoration type projects are going to be less than what a new bridge is going to cost. Mr. Kocher said it's a matter of how the County people are going to listen to the options. It's not on their agenda right now. The other thing they indicated was whatever work they were going to do, it had to meet PennDOT standards as it's State money. There was not favorable by the District Bridge Engineer for stone bridges. Mrs. deLeon said it's unfortunate that frame of mind exists in State officials, but we're supposed to preserve history in this state. It's one of our jobs to do. It's too bad they don't learn that. Mrs. Yerger said it's potential liability. Mrs. deLeon said the law is the law. The articles that Stephanie has, shows how people have seriously taken their history in other communities and how they have preserved bridges is a plus. If you asked our County official, what have you done to preserve our Counties bridges, where's the example? You won't hear an example as there is none. Mr. Maxfield said we're taking an odd viewpoint also because we have stated we are unwilling to take the bridge over. Mrs. deLeon said the County is responsible to maintain their bridges. Because of lack of maintenance over the year the bridge has deteriorated, just like with the Narrows. PennDOT did not take care of the Narrows. Mr. Horiszny said Mr. Kocher mentioned possibly having trucks being eliminated from the bridge due to the alignment study you could do. Mr. Kocher said maybe on the road itself. Mrs. Yerger said the road is problematic. Mr. Horiszny said maybe it's something we should do. Mrs. Yerger said she likes that option as an initial approach to see where that would lead us. It's got a safety factor involved that the County might be apt to listen to. Mr. Maxfield said it's our road and as long as we follow the PennDOT specs, we should be able to do what we want to do. Mrs. deLeon said the problem is the trucks coming in off of 412 – by the time they get to the approach, it is too late. Mr. Kocher said there are too many signs on 412 and the bridge. Mrs. deLeon said some truck coming that is unfamiliar with the area, and he makes the turn, then it's like what do I do now. Mrs. Yerger said it's a good place to start with the road alignment and she'd like to see the results. Mr. Maxfield said since we changed the left hand turn situation coming off of Meadows Road, our police have been there plenty enforcing it. They have been doing a real good job there. Mr. Cahalan said if we went with the alignment, the trucks would be prohibited from crossing the bridge, wouldn't we also have to have a turnaround area for trucks that come down and then can't go across the bridge? Mr. Kocher said he's not thinking necessarily about the bridge being the reason, but the curves in the roadway itself. If you could eliminate them, you could post it at either end of the roads. Mr. Cahalan said what about local deliveries coming down? Mr. Kocher said you have to let them come down. Mr. Cahalan said they could come down to the Meadows Banquet facility, but they wouldn't be able to go over the bridge? Mr. Kocher said right. Mr. Maxfield said the intersection up further, if they do venture down, they have plenty of warning and room to turn around. Mr. Horiszny asked about a PSATS article a couple of years ago on restoring bridges, did it make it into the file? Mr. Cahalan said he thinks it had to do with Rettew Engineering and some article on some bridge they did a project on. He will check in the website and check on it.

Mr. Kern asked if there was any public comment? Mr. Ted Beardsley said there are a couple of things you could do right now and it wouldn't cost a lot of money to keep the trucks off of there. At the intersection of Friedensville and Meadows Road, the sign that says "Weight Limit 10 Tons Ahead" is on Meadows. By the time a truck driver can read it, he's already on Meadows and he can't really turn around. There's a sign also on Skibo about a 10 ton bridge. The way people have to go with trucks is down Water Street. You could put the sign before Meadows Road so they had some warning not to turn. There are probably new more modern signs that say "No Trucks" or "All Trucks to the Left". The sign on 412 between the Giant and Meadows Road, with people going North on 412 is behind some tree branches, which you can kind of see the sign. In the summertime, you have more difficulty in reading the sign. That sign could be, and also the one at

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both ends of Meadow Road, changed to the neon yellow that people might take note of. The old black and white sign no one takes notice of. He did a google map the other day, and they said to go to the end of Meadows Road and turn left and it had the little camera logo there, so he clicked on the camera and it showed a picture of the intersection with the "No Left" turn sign. They've called trucking companies and some people are using it as a shortcut and some of them were cooperative and some weren't, but a number of them told us the driver has GPS and he's using GPS. GPS is sending them over the bridge. Just putting some signs where they should be and changing some from old to new might help eliminate some of the problem. That could be our first step. Mrs. deLeon said if you have a GPS, you have to go online and update it. Even if they did change it and nobody changed their GPS, it wouldn't change what's already in there. Mr. Kern asked Mr. Cahalan to look into the possibility of the sign update. Mr. Cahalan said okay.

Ms. Stephanie Brown from Meadows Road said what she just gave you was a technical paper on stone masonry bridges from the 18<sup>th</sup> century that were restored in Scotland which were in worse shape than the Meadows Road bridge. Granted there's no traffic there, as they are old military bridges, but it can be done. The guy we need is John Addison. We were lucky enough to have him as he's a world renowned conservation instructional engineer whose specialty is old bridges and old stone structures. He actually came with Mr. deGruchy who was a stone mason when they were going up to see the bridge in Maine, they popped by on their way up and he has seen the bridge. He kind of laughed when told it was going to be torn down and asked why? Unfortunately, Mr. Addison lives in Scotland or the United Kingdom, so that's a bit of a problem. Ms. Brown was in a couple of week ago to speak to Jack and gave him a copy of the page that was on the [historic.org](http://historic.org) website. It's one of the two websites that have inventories of historic bridges in the United States. She's been in contact with the guy who runs the website, and she sent him pictures of the Meadows Road bridge, and he became very fascinated with it. She thinks he's coming out this summer to see all of the bridges. What he did is he wrote something up on the Meadows Bridge and posted it to his website, which is usually something he doesn't do unless he's out to see a bridge already. They are out in Michigan. He has an engineer who he consults with, and basically what they came up with is we need to revisit the whole historic register thing. What he is telling her is there are two bridges south of here in Montgomery County, Swamp Creek Bridge No. 1 and Swamp Creek Bridge No. 2, which are listed on the National Register. They are a little bit nicer looking than the Meadows Road bridge, however, his question is these two bridges are going to be rehabbed in the name of historic preservation. He is saying once these repairs are made to these two bridges, they are not going to be much different than how the Meadows Bridge stands now. His question is why did they turn us down. The only answer she has is aesthetics. The Meadows Road Bridge does not look that nice because of all the concrete on it, and the poor repairs done over the years by the County, and basically he's saying they are doing a rehab project on those two bridges, so he thinks we should revisit it. He wants to know why it isn't eligible for the register. He has a link to the state historic resource survey form. He also states that for the United States, the bridge being 150 years old or so, is very old for the United States and he doesn't understand why that wasn't taken into consideration. She thought all bridges were that old, but apparently they are not. She'd like to submit the article to Council to look at. She's very frustrated. She went to a County Council meeting and brought the subject of the bridge up and County Council is staying out of it. She thinks they want the County Executive and his staff to deal with the whole issue. The issue was raised as to whether or not this bridge could be eligible for an earmark from the State. She thinks they are going to look into it. It's also very sad as she keeps hearing people using the term "rubble". When Mr. Stoffa addressed her concerns, he kept using the word rubble and he made it sound like the bridge was a piece of garbage. It's not, it's just a different type of construction and she thinks that's one of the reasons the bridge was turned down. That angers her. She's sitting here as a Township resident and a County taxpayer and we have one side blaming the other and it just goes back and forth. Yes, the County has not taken care of the bridge the way it should have as they were planning on tearing it down, so they did a lot of stupid repairs. They should be using lime mortar also. She has the Township, who has been dancing around the whole weight limit

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issue and the whole restricting trucks and not citing them issue. What angers her is why the Township and the County aren't working together. The County owns the bridge, but if the Township truly believes that they want this bridge saved, they need to step up. You can't force the County to do things, but you need a better partnership on this bridge. Mrs. deLeon said let's hope this meeting is a step in this direction. That's why she wanted to have the meeting. Talking can do a lot. Ms. Brown said she was down at the bridge today taking a look around, and she did see more spray paint. She asked Mr. Cahalan if he had a chance to look at that? Mr. Cahalan said he has the photographs of what you are talking about. The earliest guess they can come up with, it looks like it's a marking the County may have put on there to show separation of a crack. He will follow up with the County and try to get some verification. Ms. Brown said did you only take one picture as she took more, but she thinks he is right. It is to mark some sort of crack, and whether or not it needs to be fixed, she doesn't know. She really doesn't understand why the County may be spray painting the bridge, it really doesn't help us. There are a lot of kids that hang out under that bridge and she's worried about graffiti. She tries to check it as much as she can, but she can only do so much. For her, the big thing is a couple of years ago when we had Ivan and all the rain, everyone knows what happened in Hellertown, but nobody thinks about what happened to that bridge. That bridge withstood the rains of Ivan better than a lot of things did and that needs to be taken into account for how structurally sound this bridge is. Mrs. deLeon said she was taking a picture at that time, and within a second, the water was up to her toes. Ms. Brown said she doesn't know if anyone remembers when the Saucon Creek was iced over in the late 80's and the ice jam happened, she has pictures of that. This bridge has been through a lot. One of the things that really bothers her, is to hear Mr. Stoffa talk, he's one of those people who blames the bridge for the flooding in the area, and that just isn't true. If you look at the survey done by the conservation district, it says differently. It is fixable. She did try to bring this up at Council the other night, but didn't have time to go back and correct some of the things Mr. Stoffa said. She's going to have to go back down there. One of the things she heard when Jack was talking, the Township doesn't ever want Meadows Road closed. If we have to close it to save the bridge, that's very important to her. She disagrees with that statement one hundred percent. She did find a little biography on John Addison and she's not sure how to get a hold of him. She doesn't know if this is something we should get into and get him involved in. He doesn't live in the United States, but he does come to the States to do certain things. The only way she knows how to get a hold of him is through Andy deGruchy. She just doesn't know at this point what to do. Mrs. Yerger said you said they are in the process of restoring those bridges in Montgomery County? Ms. Brown said they are about to. She will look into who is doing that work on those bridges. She remembers reading a couple of years ago a PennDOT district that was taking the imitative to save old bridges and she thinks it was the area where the bridges are. Mrs. Yerger said if they are already on the Historic Register, that gives them back up to justify putting the money into them. She's not sure what the criteria is to qualify. Ms. Brown said they look a lot nicer. Mrs. Yerger said they may have a connection with something. If they are connected to a revolutionary war or a mill or a direct link to a famous person or a famous incident, then that's more the reason they made the Historic Register. It might be their history as opposed to just the structure itself. Ms. Brown said when we got the railroad maps, she doesn't know when Meadows Road became Meadows Road, but it used to be called Moyers Road. We kind of tend to separate the mill and the bridge, and it probably won't ever qualify for historic district, as there isn't much left to the mill anymore. She thinks we should consider revisiting it with the State. Mrs. Yerger said when Karen Samuels did the application, she did link the bridge to the mill. She doesn't know if the mill itself had enough history to qualify at a State level. As a local historic feature, yes, but on the State level the criteria has gotten tighter and tighter. Those bridges in Montgomery County may have qualified thirty years ago when the criteria at the State level was much looser, and they may not have made it if they put the applications in today. We're guessing, but those are all possibilities. Mr. Kern said as Carol Lee from the Bureau of Historic Register said, if it's old, it doesn't make it historic, which includes houses.

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Mr. Cahalan said he wants to summarize – we are directing Mr. Kocher to look into the study of restricting trucks on the bridge based on the alignment of the road, and come back with that. As far as preparation for the meeting with the County Executive, is there any direction? You talked about a report from HEA, and he's not sure what you are asking them to come up with. Mr. Kern said his only concern after hearing Mr. Kocher's report is that the only flaw in this plan is the contingency in PennDOT that the bridge has to be up to PennDOT standards. If we come up with a plan that is doable from an engineering standpoint, but it's not up to PennDOT standards, how open would they be to apply our plan? Mr. Kocher said he's not intimate with PennDOT on stone bridges, but the issue would be there wouldn't be any State funding if it's not going to meet PennDOT requirements. Without State funding, we'd have to convince the County to use their own funds. Mrs. deLeon said in going back to the PHMC letter dated June 15, 2007, it was after Karen Samuels submitted the historic research survey form, and apparently, back in 2000, they did a state wide survey on all bridges and that was September 12, 2000. It said "no UTM numbers, agree bridge has been significantly altered". Depending on what PennDOT included in its language on their research form in addition to what we provided, it didn't matter. Mrs. Yerger said PHMC puts a lot of value into what PennDOT says in that survey. When they said it wasn't historic, it was pretty much a moot point when we went in. We tried to convince them anyway, as we had more and better information that PennDOT provided, but it didn't work.

Mr. Kern said he's not sure about the direction about trying to pursue an alternate approach to the bridge design. Mr. Maxfield said the least expensive one we heard was Brien following up on the road alignment issue. Mrs. Yerger said let's do that. That's a real good way to alleviate traffic on the bridge. Mr. Maxfield said Jack is going to look into the signs.

Mr. Beardsley said while it would be really nice to keep trucks off the bridge as it would keep the longevity of the bridge, that might not have any effect on the County at all. They don't care if trucks are going over that bridge or not. Mr. Kern said it will prolong the life of it. Mr. Beardsley said instead of going in there adversarially, we should tell the County we want to save the bridge, and ask them to help us save the bridge. Mrs. deLeon said we aren't going in there adversarial, she plans on going there and educating them. Mr. Beardsley said we've been asking them to reduce the weight limit on the bridge. They know we want to save it, let's ask them how to save it, what's their idea. Mrs. Yerger said she doesn't think that's on Mr. Stoffa's list on how to save it. Mr. Beardsley said it will never be if we don't ask. Mrs. Yerger said that was pretty much the answer.

**C. POLK VALLEY PARK PHASE II IMPROVEMENTS – APPROVAL OF GRANT FINAL ACCEPTANCE STATUS**

Mr. Kern said Boucher & James, Inc. is recommending that the Phase II improvements to Polk Valley Park be granted Final Acceptance status and that the 18-month maintenance period begin upon issuance of Final Acceptance.

Ms. Stern Goldstein said the contractor has finished all elements of Phase II. He was asked for start of maintenance inspection. We did that inspection and there were some minor things the first time. She had Val go out to see if those minor things were fixed. It's looking good. Our correspondence dated January 20, 2010 is what they recommend that the Township accept it and enter into its maintenance period. The contract we resubmitted. The proper maintenance bond, Linc reviewed that, and Cathy has all that paperwork on file here at the Township.

- MOTION BY:** Mr. Maxfield moved to approval grant final acceptance for Polk Valley Park Phase II improvements.
- SECOND BY:** Mrs. deLeon
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 5-0

**D. RESOLUTION #34-2010 – ESTABLISHING REQUIREMENTS FOR DISBURSEMENT OF ANNUAL APPROPRIATIONS TO TOWNSHIP VOLUNTEER COMPANIES**

Mr. Kern said Council has previously directed that Township volunteer fire companies produce certain documentation in order to receive an annual appropriation from the Township General Fund. At a previous meeting, Council additionally directed that the fire companies must demonstrate that they have applied for the annual grant from the State Fire Commissioner's Office. Resolution #34-2010 memorializes these requirements into one policy.

**RESOLUTION #34-2010  
A RESOLUTION ESTABLISHING REQUIREMENTS FOR DISBURSEMENT OF  
ANNUAL APPROPRIATIONS TO TOWNSHIP VOLUNTEER FIRE COMPANIES**

**WHEREAS**, in 1964 the Lower Saucon Township Council began making annual payments to the four (4) Township volunteer fire companies (Leithsville, Se-Wy-Co, Southeastern and Steel City) to offset the costs of their equipment and repairs; and

**WHEREAS**, in 1978 the Council discussed the idea of requesting annual reports from the organizations due to the increase in the amount of money requested by the fire companies; and

**WHEREAS**, within the last four years the fire companies have provided copies of their volunteer rosters, annual budgets and revenue/expense reports for the prior year; and

**WHEREAS**, the Council adopted a policy in January 2010 requiring the fire companies to submit proof that they have applied for the annual Volunteer Fire Company Volunteer Ambulance Service Grant Program (VFCVAS) grant funding through the State Fire Commissioner's Office; and

**WHEREAS**, the Council encourages the fire companies to apply for other state or federal sponsored grants to offset the assistance provided from the Township General Fund; and

**WHEREAS**, the Council wishes to formalize the requirements for the disbursement of the annual appropriations to the Township fire companies; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of Lower Saucon Township requires that the following information be provided prior to the allocation of any locally contributed funding:

1. A copy of the fire company volunteer roster
2. A copy of the fire company revenue/expense report for the prior year
3. A copy of the fire company annual budget for the current year
4. A copy of the fire company's VFCVASGP grant application

Mr. Cahalan said after you adopted what was an amendment to the policy, he went back to see if there was a policy that was formally adopted by Council and he couldn't find anything. There was some discussion and some direction, so this gives a history of when the Township Council began making the contributions and when you started asking the fire companies to produce making annual reports, and they have been doing that faithfully for the last four years. You just amended that policy to request that they apply for the grant annually from the Fire Commissioner's office. This puts it all into one resolution. If you adopt it, we'll have it on record as the policy.

Mrs. deLeon said she's sitting up here for 23 years and she was surprised to read that for the past four years they provided annual reports. For 23 years it has always been discussed that in order for them to get their check, they were supposed to provide annual reports. You are only telling us it

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has only happened for the past four years? Mr. Cahalan said Cathy Gorman did research on that and she has the records. They've been coming in longer than that, as long as he's been here. Mrs. deLeon said it makes it sound like it's only been four years. They were supposed to do it when Martha Chase was here, and they have done it. Mr. Cahalan said yes that's true. Mrs. deLeon said if there's a way to say it differently that it has been annual request. She's been on the Fire Committee and knows they have done this more than four years. She's asked that question at budget meetings year after year, and the answer always was, yes, they provided the annual reports. Mr. Cahalan said he can change that to say "Whereas the fire companies have been providing copies of their volunteer rosters, annual budgets, and revenue expense report for the prior year". Mrs. deLeon said that would be great.

Mr. Maxfield said in the VFCVAS grant application, he's seeing we have a list of financial things here other than the volunteer roster, is there any statement of activity in a grant application itself, or record of activity by the fire companies, that they have to submit? Mr. Cahalan said in order to receive this grant, they have to specify a project that they are requesting the fund for. They have to say it's for the purchase of some equipment, etc. Mrs. Yerger said you are saying the amount of calls they make, etc.? Mr. Maxfield said yes. Mr. Cahalan said he believes that if they submit the grant for a the project, the majority of the fire companies are granted it automatically. There is no competitiveness to the grant. Mrs. deLeon said would the Township be able to provide assistance to help the fire companies if they are not familiar with the internet or need help in providing information for the grant? Mr. Cahalan said if they are requesting it, we can help them but he believes that they all have internet access. They all have accounts set up with numbers with the Fire Commissioners office, so he thinks they all have that capability. We will provide help if they need it.

**MOTION BY:** Mrs. deLeon moved for approval of Resolution #34-2010, with changes.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

Mr. Horiszny said we talked about annual reports, maybe we should each have a spot on the agenda where each department comes in quarterly and tells us what's happening and what they are doing and why they haven't applied for grants. Mrs. Yerger said annually would be good. They put a lot time in anyway, and she'd hate to see them coming in every quarter. Mr. Maxfield said maybe we could do one fire company a quarter. Mrs. Yerger said that's fine. Mr. Horiszny said at least we'd get an annual report from them. Mrs. deLeon said technically, we sort of do that if we have our annual fire committee meetings, so it's not like they aren't reporting to anyone. It's just another night for them to come out. Mr. Horiszny said if they are reporting to Mr. Kern and Mrs. deLeon, maybe they could just update Council once in awhile. Mrs. deLeon said you have regular meetings? Mr. Cahalan said the recent meetings they have had have been related to the DCED Steering Committee. They haven't had a real Township meeting and they need to get back to that. They've been focusing on discussions amongst themselves about exploring regional opportunities. Mr. Horiszny said they may even support the public exposure. Mrs. Yerger said have Jack ask them.

**E. UPDATE ON ADOPT-A-ROAD PROGRAM**

Mr. Kern said Council approved the Adopt-A-Road policy in May 2009. The program encourages community volunteer organizations and groups to "adopt" designated Township roads and periodically conduct litter pick-ups along these roads. Several organizations have signed up to adopt roads. The Manager will provide an update to Council on the program.

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Mr. Cahalan said we did get the responses from four organizations that were interested in adopting roads. The first one was the Lower Saucon Township Historical Society and they were interested in adopting Countryside Lane. The Lower Saucon Sportsman’s organization is the one that got this started by requesting to clean up Ringhoffer Road. The Saucon Creek Watershed Association wants to adopt Lower Saucon Road from Polk Valley Road to Pond Lane. The Saucon Valley Wrestling Club wants to adopt Polk Valley Road from 412 to Reservoir Road. They have gathered all the necessary information from them. We are going to be setting up orientation programs that the Director of Public Works will be conducting with their crew leaders. That individual is going to be responsible for rounding up all their volunteers. We will be providing them with some equipment to pick up the litter – gloves, bags, some grabbers, and safety signs to put on the road when they are out there. We also have given you a copy of a sign we are looking into that would be put up on the road signifying that the organization has adopted it and is cleaning it up periodically. We are recommending at least two clean ups a year. It would be spring, summer or fall. It would be on the weekends when the traffic is the lightest. We think we have a good program and we are ready to kick it off with these organizations this coming spring. Council thanked Mr. Cahalan for his hard work.

**VI. MISCELLANEOUS BUSINESS ITEMS**

**A. APPROVAL OF MINUTES – JANUARY 20, 2010 COUNCIL MEETING**

Mr. Kern said the minutes of the January 20, 2010 Council meeting have been prepared and are ready for Council’s review and approval.

Mr. Horiszny said page 14, line 39, the first word was put in as “talk about” and it should be a “walk about” for the creek bed for the Leithsville extension of the sewer line.

- MOTION BY:** Mrs. deLeon moved for approval of the January 20, 2010 council meeting minutes, with corrections.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 4-1 (Mr. Horiszny – No)

**VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS**

- Mr. Robert Agentis said he has Agentis Land Development on Route 378 where he and his brothers have a car wash. Directly adjacent to the south of that, they have a substantially completed pad site. The purpose of his visit today is to bring Council up to speed on the difficulties that they have experienced in marketing that particular piece of property insofar as they have not had one single iota of interest from any retailer or beauty salons or karate studios. In part, that type of business from what they have been able to gather is not feasible because it doesn’t generate enough income for the kind of improvements that would have to be made for that site. He discussed it with Chris Garges and Chris suggested he come here and poll the Council members to see how receptive they would be. They feel from what interest they have had, that everyone has indicated they like a drive up window where they can serve out the window. That being said, he’d like to see what the Council members would think before he goes and requests a variance and determine if there’s any indication they would allow them to do that. Mr. Kern said what kind of drive up were you anticipating? What type of establishment? Mr. Agentis said the problem with a lot of them, such as McDonald’s, is that they are all too large for the site. They’ve gone to the smaller ones, and a lot of the companies are now scaling down on the size of the facilities they have because they find the majority of their business is drive up, and you have very few people going inside and sitting down. They’ve looked at the Baskin & Robbins, and other ice cream stands, and one in particular. When they said no drive up window, he just wasn’t interested. They talked to Taco Bells, Quiznos, etc. in the area. They are left with a piece of property that they haven’t found a suitable match for

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and a large part is because those who have an interest would like to have the ability to have drive up. Mr. Horiszny said it wouldn't be just drive up, there would be some table service? Mr. Agentis said yes, there would be table service. Mr. Maxfield said the only question he would have is for our consultants. The parking lot was designed not to be a drive through and there are different capacities that are needed for different parking lot sizes and for cars to go through. He doesn't know if that kind of space is there. Ms. Stern Goldstein said the parking would still be based on the square footage of the building, so the parking doesn't change at all unless the square footage of the building shrinks or grows, but to add the proper configuration for the drive through, the queuing and the circulation, you are going to eat up some of the parking that is there, so the plan is going to need to be amended whether that is an amended final land development, and we are going to have to see what the extent of the changes are and what they would be, what is needed. Without seeing the plan, they really don't have more information. Mr. Agentis said he brought along two sketches which are just ideas. He doesn't know how to physically make it work or if it's even possible at this point. He'd be happy to share them with Council. Mrs. Yerger said to Mr. Kocher it was going to be an eating place with cars going in and out of the lot anyway, does a drive through increase the amount of traffic flow that will be coming out onto the main road and is that an issue? Mr. Kocher said he doesn't know what the extent of the size is. Mrs. Yerger said she just wants to know if that will impact line of sight as it really wasn't designed for that in mind. Ms. Stern Goldstein said looking at it quickly, the one thing she sees that would have to be amended quickly would be the width of the aisle that goes around the building. It's twelve feet wide, and there's no escape lane. If somebody is in there, they are stuck. You always need to have an escape lane if someone wants to get out of line. They would need to realign where things are, possibly turn the building at a 90 degree angle and have it so the narrow end is facing the street or shrink the building. There are a number of things to do. It doesn't necessarily mean the building has to get smaller, it could be a different configuration. Mr. Agentis said the other plan he had, the building as you look at it from the front, shifting to the left or to the south, approximately ten feet, it's the same configuration and put the drive through on the north side of the building. Ms. Stern Goldstein said there is no queuing for the drive up or the drive up lane either. You need to have the stacking. She thinks the Township calls for six vehicles stacking. Mr. Kern said that means six cars waiting? Ms. Stern Goldstein said yes, one being served and five behind that one. Mr. Agentis said they don't have near the queuing they had last year. That might be because of the general economy. They took an average of all of the vehicles that go through the wash facility right now. It's an average of 68 cars per day. It's eight minutes between washes. Ms. Stern Goldstein said if someone is going to look at this pad precisely, they are hoping for more than 68 cars a day. Mr. Agentis said he can't justify their economics. He's just saying from their experience with the car wash, each wash takes approximately eight minutes. If everything ran perfect, which it never does, you can do seven cars in an hour, so you'd have twelve to fourteen cars an hour going out of that driveway. As it stands now, there is no use for the driveway between there and the pad site as he is the only person who drives there. Ms. Stern Goldstein said she's talking Lower Saucon itself. They were just working with a Dunkin Donuts and at the peak hour in the morning, they exceeded 40 cars per hour every day the study was done. Your car wash is already in, but if you are altering your plan, we just need to bring these items up. Attorney Treadwell said if he read the right section in our zoning ordinance, it's ten cars but can go down to eight if you have more than one window. Mr. Maxfield said it looks like there are three places on here where opposing traffic is merging. Mr. Agentis said he believes the arrows on the plans are wrong. Mr. Maxfield said in order to make it work, they would have to be shared areas by the two facilities. Mrs. Yerger said what about the cars going out to the main street? Mr. Kocher said it's hard to say without the use. Mr. Maxfield said unless there is a new exit, the outflow really shouldn't be different unless the use changes drastically. Mrs. Yerger said if you are talking about a sit-down restaurant, you probably are not talking 40 cars an hour, but if you are talking about a drive through with 40 cars an hour, it's going to increase the volume exiting on that road. Does that play into it? For the sake of the business, you would hope it would be that volume, but is that an issue in exiting onto the road. Mrs. deLeon said we don't want to create any negatives, but if they can't get out, it's not going to

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be a benefit to anyone. Mr. Agentis said the driveway is one way out. Those arrows were from an old plan, so the traffic goes directly out as there are two lanes. Mr. Maxfield said the business would either have to exit to the other side or enter to cross way to the other side to get to the business. Mr. Agentis said they would come in the entrance down by the car wash, circle around the back of the property. That's the way it is on the plan now. They would exit to the south. Mr. Maxfield said it sounds like it's going to be really dependent on what it is you choose for that other business and what exactly the traffic is that you are going to have to deal with and create patterns for it because some uses are going to be much more intense than others. He would say if you are thinking about going for a variance, he's guessing you will have to really pin down what you are going for a variance for. Mr. Agentis said he agrees. He doesn't know who that customer would be at this point. He's asking Council, if presented with the right plan and the right use, that right customer could possibly scale back the building a little bit and may not require as much parking, have fewer tables inside and a window that supports the business. Mrs. deLeon said the way this is designed, how many tables can go in there? Mr. Agentis said he honestly does not remember. Ms. Stern Goldstein said she thought it was 27 or 28 seats. Mr. Agentis said he thinks 30 at the max. Mrs. deLeon said if there was a drive up, would that cut back on the drive through? Ms. Stern Goldstein said it depends on the actual use. You could look at a lot of the small box, window type users and he's named a couple, like Taco Bell, Starbucks, and some of them have 20 – 30 seats inside and some have three tables inside. It depends on the user and what their menu is and what their plan is for the day. Unless it's very, very high volume during the peak hour, it probably needs to subsist on something else during the day. Mr. Maxfield said he keeps thinking of the relatively new shop down in Coopersburg which is an ice cream drive through which would probably give you a lot more tables inside, and they make due with a relatively small building and a small parking area. You can go inside or you can drive through and get your stuff and head right back out onto 309. Ms. Stern Goldstein said the problem with ice cream is that it's real seasonal and sometimes they are with another franchise to share the window during the seasonal high and lows. For example, water ice is usually in a small building with a very active window, but it's seasonal. Mr. Agentis said Upper Saucon, who has secured the sanitary sewer, says any type of restaurant and ice cream is considered restaurant, and requires a 5,000 gallon grease trap. Mr. Maxfield said we just heard from our authority director and he said they've been looking at the sewage coming out of Giant shopping center where they do food prep and he said it's amazing the amounts of grease and awful stuff you get out of the food establishments. Mr. Kern said he could see something like a kiosk there like Mocha Mike's as a drive through. Mr. Agentis said Mocha Mike's had an interest in the site, but it's too big and too expensive for them. They would have liked to put it where we had the little fruit stand. Mr. Maxfield said he thinks if it were the right plan and the traffic was worked out, he wouldn't have a problem with it. Mrs. deLeon said she would not have a problem with it either. We need to get something there to get a tax base. Mr. Horiszny said he would agree. He wouldn't oppose a variance. Mrs. Yerger said like Mr. Maxfield said as long as it meets all the requirements. Mr. Agentis said thank you, he really appreciates that support. They are going back to the potential customers. A lot of them won't even take a chance or do a zoning challenge if it isn't clear cut or laid out. Attorney Treadwell said even if all five Council members say they love the idea, you still need to go and get the Zoning Hearing Board's approval.

- Mike Keifer from Lower Saucon Road said basically what he got was a "Cease and Desist" order from the Township. The zoning book states that a nursery use is a permitted use, but you put it in a commercial category and not an agricultural use, which puts him in a different tax bracket. It limits his uses for the land. The Right to Farm Act Law gives him the right to farm it. If he was growing corn or beans, none of them would apply to him. You can't take a nursery and not call it agriculture. He has nine trucks where he applied separately for farm tags. You have to send in W2 forms, what you are growing, you have to prove yourself as a farmer to get that tag. You are limited to only agricultural products. That kind of proves he's a farmer. The State recognizes him as a farmer. Your zoning book, if you read it, basically the purpose of a rural agricultural district, the second line states the district is established to encourage agriculture and related items as well as to preserve unique natural surfaces of the land. He's doing all of that. He has an old building that

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he restored. Mr. Kern said what was the Cease and Desist order given for? Mr. Keifer said he actually hired Brian Monahan to represent him. He wants to stop litigation on this as the Attorney General would take this case under the law and you are going to have municipal taxpayer's money fighting state money, and it's a waste of everybody's money and time, and he will win. The Cease and Desist is as follows: It says he's operating a nursery business on the above referenced parcel without securing the necessary approvals. Mr. Kern said what are the necessary approvals? Mr. Keifer said they want a site plan, which it's hard to give a site plan on agricultural use, you have to rotate the crops. You still have to change the contours around. They said it's a change of use, but it's no more change of use than a rotation of a crop. You can't tell a farmer one year he can plant corn, and then the next year if he wants to plant beans, it's a change of use, and it's a rotation of a crop. Attorney Treadwell said he talked to the Zoning Officer and the Zoning Officer has issued a notice of violation to Mr. Keifer. There is a procedure for any person who receives a notice of violation to challenge the content of that notice of violation. If that person disagrees with the determination made by the Zoning Officer, he or she can appeal that to the Zoning Hearing Board and the Zoning Hearing Board either says yes, we agree with the Zoning Officer or no, we don't agree. That is the procedure. He's not sure what Mr. Keifer is here for tonight asking Council when there is a procedure in place. If you disagree with what the Zoning Officer has written, you need to follow through and get a determination on that. Council does not grant variances as we told Mr. Agentis. That's the jurisdiction of the Zoning Hearing Board, just as an appeal of the determination of the Zoning Officer is a jurisdiction of the Zoning Hearing Board. That being said, his understanding is that the first thing that the Zoning Officer asked Mr. Keifer was to submit an application to obtain a zoning permit. That is one of the items that is noted in the violation that Mr. Keifer is operating whatever use he's operating, and Attorney Treadwell doesn't know sitting here tonight, nor does anyone on Council sitting here tonight, know what that use is because there has not been an application for a zoning permit. If, in fact, it is a nursery as Mr. Keifer has said, a nursery is a permitted use in the RA zoning district, but the Township has no way of knowing what the use is until Mr. Keifer submits the zoning permit application for the Township to review. That would be the first logical step for any use that comes into Lower Saucon Township or most other townships whether it be a commercial use, an agricultural use, a residential use, the first step is to go see the Zoning Officer, fill out an application for a zoning permit. Mr. Keifer has not chosen to do that and that is at least the initial reason he received a notice of violation. Mr. Keifer said nobody has yet asked him for that. That's the first he heard of that. He won't disagree with Mr. Treadwell. The following uses do not need a site plan approval unless required by an overlay zone, general agricultural use, growing crops, except forestry, excluding animal husbandry, and greenhouses. He has no greenhouses, so it would fall under (b) where he really doesn't need anything. He can guarantee you never stopped or cited anyone who has grown what you consider crops. Attorney Treadwell said anybody who establishes a use in Lower Saucon Township is required to get a zoning permit. You don't have a zoning permit. Mr. Keifer said for what? Attorney Treadwell said on the application you say, here is what I intend to do on my property, and then you get a zoning permit from the Zoning Officer. If in fact, that use is permitted, then you are permitted to do "x" on your property. You don't have a zoning permit. Mr. Keifer said he doesn't need a permit for a permitted use. That's his argument. Attorney Treadwell said he understands what his argument is, but the fact is, you do not have a permit and the zoning ordinance says any use needs a permit. Your contention tonight is because you are operating an agricultural use, the Township has no jurisdiction over you whatsoever. Mr. Keifer said in reality, yes. Attorney Treadwell said he disagrees with that. Mr. Keifer said that's why he came here. He came here to amicably resolve this. Attorney Treadwell said Council is the legislative branch of the government in Lower Saucon Township. The Zoning Officer is part of the executive branch of the government. When you have a disagreement with a determination that is made by the Zoning Officer, the proper avenue to appeal and challenge that determination is to go to the Zoning Hearing Board. Mr. Maxfield said we don't have the ability to solve this problem for you. We're not legally permitted to do this. That's why you have to make these arguments with the Zoning Hearing Board. We can't get involved with this. Mr. Keifer said he's not going to go for a variance. He wants the

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zoning book changed. It's a shame that it's going to go to the Attorney General. Mr. Kern said before we go there, one thing that he hears tonight that may be a good reason you came was a statement that Mr. Treadwell just made that if you fill out a zoning permit application and state what you are doing, you may not have to fill out a site plan as that is a permitted use. From what he's heard, you haven't done that and you simply need to fill out a zoning permit application that says you are doing what you are doing. Mr. Keifer said that's the first he heard of having to do that. If someone would have come to him and asked him before they cited him, none of this probably would have happened. Mr. Kern said if you simply fill out a zoning permit application, maybe this will all disappear. Mr. Keifer said he's willing to do that. Mr. Maxfield said we need to be very careful about what advice we are giving people here because we do not have the ability to solve this problem. Mrs. deLeon said we don't have all the information. We are getting pieces of information. Mr. Maxfield said we are simply throwing out ideas. Mrs. deLeon said we are not the Zoning Officer, so we don't have access to the zoning laws in front of us. Peter Thompson, one of Mr. Keifer's neighbors, said he has been a business associate of Michael and also a friend for three decades. He is a resident of Williams Township, lives immediately adjacent to Michael, and is the Vice Chair of the Planning Commission in Williams Township. He is a personal friend of Mr. Monahan whom Michael has retained. He comes tonight to attempt to interject a little commentary and perhaps a little reason. He's surprised that in all the paperwork he's seen from the Township, there never was a request for the application for a permit. His first question is: do you, as a policy require ongoing agricultural enterprises on various parcels in the Township to file a request for zoning permission? It surprises him a little bit that we would be so bureaucratic, but perhaps that is your policy and Mr. Keifer needs to be advised of that. It's a general question. We come here looking for direction and hopefully common ground for resolution, not adversarial. Indeed, he comes with Mike to insure that we are in discussion as much as possible. Mr. Maxfield said we can make comments, throw out ideas, but we cannot resolve this issue. Mr. Thompson said there is no attempt to look for a defacto or complete resolution tonight. This is really looking for direction and to be more fully advised and informed of the procedures that need to be approached. That's his question about the application for the zoning permit. It surprises him, and is something totally alien to him. His experience in Williams Township is that agricultural enterprise doesn't need a zoning permit. You have your policies and we have ours. Mr. Maxfield said we don't know what those policies are. Mr. Thompson said he fully understands. Attorney Treadwell said he can read you what the zoning ordinance says, but he would preface that without knowing what Mr. Keifer does at the property, it's hard to categorize what the use is. He doesn't know, nor any of the Council members know, what Mr. Keifer does. Does he grow trees? Does he grow shrubs? Does he sell them at the property? Does he sell them somewhere else? We don't know the extent of what the use is on the property and without knowing that, we cannot make a determination as to whether it's permitted, whether it needs a site plan, whether it needs to go to the Zoning Hearing Board, we just don't know those facts. Mr. Thompson said he fully accepts what Mr. Treadwell is saying and no one is asking anyone to even approach any kind of delineation in that subject area. We're really looking for guidance here tonight. That's why he asked the question and perhaps no one here is able to answer it, but it surprises him for a historic farm parcel that has been farmed for probably 200 years, that it would need a permit to continue that use. One of the reasons Michael purchased this farm was because it had been historically used to cultivate various species of chestnuts and it attracted his attention for that reason. Indeed, there are solid references and references that Michael can produce from the American Chestnut Society looking at the various types of trees that have been grafted and grown on this property dating back to the 30's and the 40's. Evidently, the Helms family was very interested in this kind of thing and it's one of the reasons he got involved in this property as it intrigued him as an agricultural and horticultural enterprise. He's surprised tonight that it was not broached to Mr. Keifer that he would need to file a request for permit to continue this kind of work. All the papers he's read, it's never been broached, and Mr. Keifer has just been cited with a violation and a Cease and Desist order. We're here tonight to look for direction and an amicable resolution, some path for resolution tonight that we can proceed on so this doesn't become wasteful, in any public sense. Mrs. deLeon said you

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have a letter that has a thirty day window on it. You need to respond to that. Mr. Keifer said indeed. Mrs. deLeon said you can get in other kinds of trouble for not responding to it. She doesn't remember the year that the ACRE thing was going on, and she sits here as an elected official, hoping our zoning and our regs meet the definitions of ACRE. There are also other things that inter twine with regulations and we have the municipal's Municipality Planning Code. We have regulations that govern grandfathering of different issues and expiration of certain uses if things haven't occurred in twenty years. Attorney Treadwell said he knows Attorney Monahan fairly well and he would be happy to discuss this with him at any point. He will read a section of the zoning ordinance which says "none of the following shall occur in the Township unless a zoning permit is issued by the Zoning Officer, constructing, moving or adding to a structure, altering a building or structure". He doesn't believe Mr. Keifer is doing that, but he doesn't know. "Establishing or changing any use of land or structures". If what you are telling him tonight is it's always been a chestnut tree growing facility, is that what Mr. Keifer is doing now – growing chestnut trees? He doesn't know what the answer to that is and that's where we get into the question from a factual standpoint, what is the use. Until Mr. Keifer files an application with the Township asking for a permit that says here is my use, we don't know what that use is. He would guess Mr. Keifer's response is that it was a farm before and it is a farm now. That's a little too general for the Zoning Officer to make a determination. Mr. Keifer said he purchased the property in 2005. For the last twenty-three years, he's lived in this Township. For the last twenty-three years, he's done the same thing. He's rented a piece of property at the end of Lower Saucon before you go into Springfield Township and he did the exact same thing there. He lived on 412 in Hellertown and he did the exact same thing there. He bought property and had a piece of land in Williams Township which he sold. He briefly ran his business there, but still continues to run it in Leithsville. Chris Garges was familiar with what he did, he knew what he did. He's done some business with the Township, so they know exactly what he did and still does. He didn't change anything. The property he bought, he still has some heritage there. He has never, ever been asked to have a site plan or to get a permit for his business or an application for a permit. For twenty-three years, he's done exactly what he's doing now and never ever been asked to do it and doesn't understand why he has to do it now. He's not saying he won't do it. Attorney Treadwell said it's not what you do for a living. The way the zoning ordinance is structured, it's the use that the property is put to. He doesn't know what you do for a living. It's the use that the property is put to, not what you've been doing for a living for twenty-three years. Mr. Keifer said he grows trees, he's a nurseryman. He's had a tree farm and leased land over the years, in this township, out of this township. Attorney Treadwell said here is the factual situation which is why he started off by stating that this may not be the right venue for this discussion because your statement that you grow trees for a living leads to the next question which is, do you then sell those trees? Mr. Keifer said he is strictly a wholesaler. He is a broker - two brokers. An example would be the casino in Bethlehem; they supplied probably 50% or 60% of those trees to the casino. Attorney Treadwell said are all the trees you sell grown on this property? These are factual questions that need to be asked and need to have answers before determination can be made as to what the actual use of the property is, not what you do for a living. He doesn't have these answers and it's not something that Council can answer. Mr. Thompson said what is a little surprising is that Mr. Garges, who he respects, has visited Mr. Keifer's property on various occasions for various reasons numerous times since 2005, and somewhat out of the blue, these issues were never broached even though Mr. Keifer has had an ongoing activity on the property, until the Cease and Desist order came out. That strikes Mr. Keifer as somewhat of a surprise and disbelief and tonight we find out that he needs to file an application. He understand how the zoning law was written, but he is trying to respond the best way he can and he's here tonight to try and understand the procedure. Mr. Keifer said the main reason he is here so it doesn't get to the point that the Attorney General gets involved and wastes taxpayer's money. That's the main reason he's here. Attorney Treadwell said he's not going to debate the legal issues with you and whether the Attorney General will agree to get involved or not, if the only thing the Township is asking for is for you to apply for and obtain a zoning permit. If the Attorney General wants to get involved in that, then more power to him. Mr.

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Keifer said he received a letter with nine violations on it and no request for an application. Attorney Treadwell asked to see the letter. The very first section on it you are notified that you are violating Section 180-6 (Zoning Permit Required), so for you to stand here tonight and say nobody ever told you that you needed a permit, that's the very first section that is listed. Mr. Thompson said prior to that Mr. Garges was at the site many times. Attorney Treadwell said whatever the history is with Mr. Garges, is the history. That's not important to this issue. Since you brought up the history, he believes part of the prior history was your failure to obtain permits for some work that was being done. It's hard for him to believe you've never heard anyone from Lower Saucon say you need a permit before you do something. Mr. Keifer said a permit to farm his land in an agricultural zone. If someone would have come to him prior to citing him and said you need a permit to farm your land, he would have gotten a permit. Attorney Treadwell said he understands his position a little better if someone would have asked you to get a permit before you got the violation. Mr. Keifer said correct. Attorney Treadwell said he will be more than happy to talk to Mr. Monahan about this. Mrs. deLeon said she thinks that's okay, but what Mr. Monahan he doesn't respond? Mr. Keifer said he is going to respond tomorrow. Attorney Treadwell said someone called the Zoning Office for the form to appeal to the Zoning Hearing Board. Mr. Keifer said the reason he came tonight was to try to resolve this; and hopefully, all that is necessary is a permit. He did not think you needed a permit for getting this farm and agricultural piece of land in an agricultural area. He's never seen that happen. He's farmed land in Pennsylvania, New Jersey, Delaware and never, ever had to get a permit to do an agricultural use in an agricultural zone. He has for twenty three years dug trees and never had to get a permit to farm. It's not something municipalities do. If you go to Durham Township, one of the largest landowners there is a person who owns Durham Nurseries and Mr. Keifer asked him if he needed a permit on an established nursery and he said no. In Springfield Township, the second largest landowner, Bob Sysco, said he never needed a permit to farm or have a tree nursery. All the surrounding townships or tree nurseries he investigated, you don't need a permit to farm an agricultural piece of land. He's not saying he won't do it, or it's right or wrong, he's saying in twenty-three years he's never seen it done. Mr. Thompson said that's why the Notice of Violation was such a surprise. Mrs. deLeon said it will be interesting to have the report back from the Solicitor after his talk with Mr. Monahan. That way they can try to understand what is going on. Mr. Keifer said it's a shame as there are a few people in the Township who they farm their land, ten acre parcels or more, and those people are elderly and the only income they have that supplements them is what the government gives them to farm their land. If the zoning book reads the way it does now and continues to read that way, and he would have to do engineering, permitting, it's just not feasible as there will be no money left. It's not cost effective to farm these pieces of land. Attorney Treadwell said he doesn't think Lower Saucon Township or this Council has any intent of trying to make it hard for farmers or financially unfeasible to farm their land. That is not the intent at all. Mr. Keifer said then maybe this discussion can go in a positive way. What was your intent? What is your intent to cite him on nine different things? It's kind of redundant, a lot of the things, especially when you read your zoning book on what he wants to accomplish and what you want to accomplish. Maybe someone can answer that. Attorney Treadwell said he thinks the first step is, as he read from the zoning ordinance and it's the first section that says, a zoning permit is required. You need to explain that to anyone who comes into the Township. Whether or not you got this Notice of Violation because the business expanded somehow or changed somehow, what Mr. Thompson said it used to be a chestnut tree farm, and his question was, is it still a chestnut tree farm? If it's not, then maybe there was a change in the use that requires you to come into the township and say it used to be a chestnut tree farm and now it's going to be "x", is that going to be okay? Mr. Keifer says he has at least 200 different cultivars of trees on that property. Attorney Treadwell said he's not suggesting it makes any difference what kind of tree grows on the property. He's suggesting that an explanation to the proper person, who would be the Zoning Officer, as to what the property is being used for is the way to go. Mr. Keifer said it's an agricultural use and it's always been. Attorney Treadwell said it's a little bit too general for anyone to come into the Township or to a Council meeting and say it's an agricultural use, that's it. That's my answer.

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Well, what type of agricultural use? What are the specifics of the use? That's what needs to be explained to the Zoning Officer. Mr. Keifer said it's a nursery. Attorney Treadwell said there are so many questions that come with the statement, it's a nursery. Do people drive to this business to purchase? Mr. Keifer said no. Attorney Treadwell said well, that's different. These are all questions, and you should be having that discussion with the Zoning Officer. No, no one comes to my property to buy trees, everything I grow there gets sold wherever, however. That's the discussions that need to take place with the Zoning Officer. Mr. Keifer said when he went to Chris three week ago, he sat down and had a discussion and Chris said basically you've been cited and you have to comply. It wasn't a discussion like this at all. When he sat down with Chris, if he would have said just go get a permit and put that down in writing what you are doing there, that's less evasive than this and would make more sense. He'd like things to be handled like that in the township he lives in. Mrs. deLeon said in all fairness, did you tell Mr. Garges you didn't need any of this because of the ACRE law? Mr. Keifer said no, he actually did not say that. He told him he would use the ACRE law to protect himself, after Mr. Garges told him this would have to be litigated. Mr. Garges told Mr. Keifer he would have to comply. That's not saying get a permit. Put down in writing what you are doing, even though he has to know what he is doing as you have aerial photographs of what he is doing. You took aerial photos in 2005, 2007 and 2009. He has those pictures and it's a nursery. You really don't have to question him as you can see in the pictures what is going on. Attorney Treadwell said the purpose of having a zoning permit requirement is for the person who owns the property and wishes to conduct a certain use on the property to come in and explain to the Township what that use is. It's not for the Township to go out and investigate and see what you are doing. It's come on in and tell us what it is you intend to use the property for. Mr. Keifer said he assumed when he bought an agricultural piece of land and it had been an agricultural use for twenty-three years in this Township for the same exact thing, he would be able to continue to do it as he never had to do it on the other two properties. That's why he bought an agricultural piece of land. Attorney Treadwell said part of the reason why the MPC says that if a Zoning Office determines that a violation exists, that the first step is to send a Notice of Violation and give you that initial warning that the Zoning Officer thinks there's a problem there. That's why you have a 30 day period to appeal it to the Zoning Hearing Board to give you a chance and due process to be heard. Mr. Kern said to think you are being singled out, there is not much farming activity going on in the Township. There is some, but farming activity that is going on has been going on with the same parcels for a long, long time. If there would be a parcel that hadn't been farmed for a while and someone came in and asked to farm it, there has to be a zoning permit just to make sure they are doing the farming they are saying they are doing. He would say your situation hasn't happened much in the Township. Mr. Keifer said he thinks there's a reason for that. If he was shopping for a piece of land right now, and because he's a little more educated because of this, he would open a zoning book first and read it. The way your wording is and the way you put commercial uses as you have him in with a craft shop and a day camp under Nursery, it's still permitted uses, but then it's kind of confusing and you go onto (b) and it says the following uses do not require a site plan approval unless required by the overlay zone – general agricultural uses, which is if you go to the state's definition of a general agricultural use, horticultural falls into that. He would assume growing crops which is what he does, he wouldn't need any kind of permitting or approval as it states it in your zoning ordinance book. If he was looking at this and shopping for land and looked at your ordinance, and it said nursery under commercial uses, he would go somewhere else. Maybe that's why this Township doesn't have a lot of nurseries, maybe that's why he is the only nursery. Attorney Treadwell said because a permit is required? Mr. Keifer said yes, and because you put in the commercial uses, nurseries – not as an agricultural use. Attorney Treadwell said he will be more than happy to talk about it with Mr. Monahan. He will report back to Council after his phone conversation. Mrs. deLeon said that's all we can do right now. Mr. Keifer said even though they don't have the same views on zoning, he loses some of his constitutional rights by it and one of the reasons he does an agricultural use is because he is excluded from a lot of that. Everybody on Council has the same objectives as he does. He wants to grow trees. He's into historical buildings. The Keifer's have been here for five generations in

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this area. There are streets named after them. He wants to continue to raise his family here and make a good living here. We have the same goals to try to conserve land and open space, and grow some more trees. He does oppose some of the view that the Council has. He thinks we can get to the same point if we work together. He wants the right thing to happen here. He wants to be able to farm his land. Mrs. deLeon said if this discussion proves that something needs to be tweaked or changed, this Council will entertain that. That's how we change our regs by going through something and discussing it. Mr. Keifer said the zoning book definitely has to be changed. A wholesale nursery cannot be called a commercial entity more than growing corn, beans or anything like that. It's an agricultural use and needs to be treated the same way so we can get more people doing that and preserving land so they can make money with their land and that way they won't sell their land, especially the smaller parts of land. The Conservancy goes after bigger pieces of land and they should. Mr. Kern said on that one issue, can we ask staff to render an opinion on that for the next meeting? Staff said yes.

**VI. COUNCIL AND STAFF REPORTS**

**A. TOWNSHIP MANAGER**

- Mr. Cahalan said on the Repyneck Minor Subdivision, they paid the \$3,113.00 recreation fee and at the last meeting of the Parks & Recreation Board on February 1, 2010, the Parks Board recommended that the fee be deposited in the Town Hall Park Hall account. With that recommendation, he needs approval from Council to deposit the money into that account. Mr. Maxfield said do we have improvements planned for Town Hall Park? Mr. Cahalan said this is the recreation fee we deposit into the Park Funds for maintenance. Mr. Maxfield said he wonders if it could be used better at Polk Valley Park right now. Mr. Cahalan said we are okay at Polk Valley Park, but are depleted at Town Hall because of the rubberized mulch that was put in.

**MOTION BY:** Mrs. Yerger moved for approval that the recreation fees of \$3,113.00 from the Repyneck Minor Subdivision be deposited into the Town Hall Park Fund.

**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any comments or suggestions? Mrs. deLeon said we are talking about Town Hall Park and she's been wanting to bring this up. When the Chamber had their picnic at Town Hall Park up at the top, the baseball teams came up and told us we had to move our cars because they were parked in a certain area and we might be taking a chance that our windows would get broken. It does obviously happen as they came up twice and told us to move our cars. Is there anything that can be done? Mr. Cahalan said if we had multiple uses going on, we probably should have given some guidance to the people using the pavilion if there's a game scheduled. He said they can look into that.

**ROLL CALL:** 5-0

- Mr. Cahalan said Priscilla had asked at the last meeting about the questions that they put to PennDOT about the Friedensville Road speed limit study. Just to refresh you on that, Council had sent a request to PennDOT asking them to do a traffic study on Friedensville Road coming out of Hellertown with the hope that the speed limit could be reduced below the current 40 MPH limit. We received a response back previously from PennDOT and they said based on their traffic and engineering studies, they would not reduce their speed limit below the current 40 MPH limit and at a Saucon Valley Partnership meeting on January 13, 2010, the SVP members had several questions about the PennDOT traffic studies, specifically what dates the traffic and engineering studies were conducted, what times of day were the traffic studies conducted, and did the studies encompass the accidents for the Creek Road crash zone which is in the City of Bethlehem. For answers to these questions, he contacted Joe Rauscher at PennDOT, and Joe said the traffic studies were done on December 17, 2009 and December 18, 2009. The second question, the

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traffic studies were conducted between 12 PM and 3 PM on those dates. The traffic studies did encompass the Creek Road crash zone. Mrs. deLeon said they didn't say from where to where? Mr. Cahalan said he's assuming that means the intersection of Creek Road and Friedensville Road. John Bate indicated they respond to calls at that intersection. Mrs. deLeon said the 17<sup>th</sup> and the 18<sup>th</sup>, that was a Thursday and a Friday. She's just wondering how they pick 12 to 3, and why they would pick that. To her, that's a quiet time. A busier time would be in the morning or maybe 2 PM to 5 PM. Mr. Maxfield said school busses would be just getting out at that point from 2:30 PM to 3:00 PM. He wonders what their parameters were also.

- Mr. Cahalan said there was a discussion at the previous meeting in which Stephanie Brown brought up the intersection of Meadows and Skibo Road. There was a discussion and Stephanie reported there had been some close calls up there. Council asked him to check with the Police on the number of incidents at that intersection. He checked with the Chief and the Chief reported that there have been no crashes or incidents at that intersection since February 3, 2007.

**B. COUNCIL/JR. COUNCIL**

**Kimberly Kelly** – Absent

**Mr. Maxfield** – No report

**Mrs. Yerger** – No report

**Mr. Horiszny**

- He said he saw an article on detention pond improvements or makeovers and he will give Jack the article to make copies in case we want to consider the information.

**Mr. Kern** – No report

**Mrs. deLeon**

- She said Monday, February 8, 2010, weather permitting, they will have the artist reception at the Heller Homestead, where Stephanie Faleski is the featured artist. Her exhibit runs through the end of March 2010. If you like animals, they are beautiful animal paintings. It is being held from 7 PM to 9 PM, snow date is February 9, 2010.
- She said Monday, February 22, 2010, there will be another gaming meeting. At the January meeting, Jay Finnegan was voted Chair, Deb Hunter the Vice Chair, Tom Nolan is the Treasurer and she was nominated for Secretary.
- She sent around the by-laws, so if anyone has any comments or suggestions, please let her know. They are working on a grant application, a right to know law, getting officers insurance, and policies for meetings. She has this preference about public comments and she likes the way we do our meeting where everybody gets to comment on the agenda items. The way their agenda is set up is there is a comment period in the beginning and that's it. How can you comment on an agenda item when you haven't even heard the discussion yet. She is working on trying to change that. She doesn't know how successful that will be, but at least we will have another comment period at the end of the meeting.
- They also hired the law firm of Tallman Hudders. Scott Allison has been hired as the Solicitor. We will be working with him and he will be going over all of these things also. We have many questions on the law and its interpretation and how everybody wants a piece of this action and the letters are starting to come requesting the gaming funds. If you have any comments, please let her know.

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- She said on Wednesday, February 24, 2010, from 5 PM to 7 PM, the Hellertown-Lower Saucon Chamber will hold a business spotlight event at Falk's Funeral Home. She will be sending information around about that.

**D. SOLICITOR**

- Attorney Treadwell said Mrs. Murray approved the installation of the Meadows Bridge historic marker on her property. As soon as the weather permits, and the schedule of the Public Works Department permits, they will put up the sign.
- Attorney Treadwell said we talked about leasing the Timko property for rail trail access. He talked to Mrs. Timko. She asked how much is she going to get paid? He told her he would discuss it with Council. His suggestion was he would go back with her with a proposal that if we can lease it on a year-to-year basis and pay what her real estate taxes are for the year as a lease payment, that might be a fair way to do it. The taxes are about \$1,100.00 a year. The proposal would be that he would ask her if she would agree with a lease to purchase type option where they would lease it for a number of years and any payments they would make during those years could get applied to an option to purchase it at a later date. Mr. Maxfield said will she allow us to do any improvements? Attorney Treadwell said she won't talk to us about anything until we give her a number she is happy with. He will call her back.

**E. ENGINEER** – No report

**F. PLANNER** – No report

**VII. ADJOURNMENT**

**MOTION BY:** Mrs. Yerger moved for adjournment. The time was 10:10 PM.  
**SECOND BY:** Mrs. deLeon  
Mr. Kern asked if anyone had any questions? No one raised their hand.  
**ROLL CALL:** 5-0

Submitted by:

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Jack Cahalan  
Township Manager

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Glenn Kern  
President of Council