

**I. OPENING**

**CALL TO ORDER:** The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, February 7, 2007 at 7:01 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

**ROLL CALL:** Present – Glenn Kern, President; Thomas Maxfield, Vice President; Priscilla deLeon, Sandra Yerger and Ron Horiszny, Council Members; Jack Cahalan, Township Manager; Assistant Township Manager, Leslie Huhn; Jim Birdsall, Township Engineer; Township Solicitor, Linc Treadwell; Township Planner, Rick Tralies; and Jr. Council Member, Vanessa Segaline.

**PLEDGE OF ALLEGIANCE**

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

**Mr. Kern said Council did not meet in Executive Session prior to this meeting.**

**PUBLIC COMMENT/CITIZEN AGENDA ITEMS**

Mr. Kern said for citizen agenda items – Council operates under Robert’s Rules. What that means is during agenda items, Council will talk amongst themselves and amongst staff and the interested parties. At the conclusion of that, we open it up to the public for public comment. There is an opportunity for non-agenda items at the end of the meeting to discuss whatever your business might be. We do have a microphone and there are microphones up at the table. There is a sign-in sheet in the back of the room. Please print your name and address and email address. It is very helpful in transcribing the minutes. For those who want to receive emailed agendas, please give your email address to Diane, Leslie, or Jack or call the Township office. Please state your name and address. If you can’t hear, please let us know. Mr. Kern asked if anything was taken off the agenda this evening? Mr. Cahalan said V.H., Ordinance 2007-09 – Act 40 Revision – Authorize Advertise.

**II. PRESENTATIONS/HEARINGS**

Mr. Kern said one of our finest fire fighters passed away last week, so a resolution No. 32-2007 was read:

**LOWER SAUCON TOWNSHIP  
RESOLUTION #32-2007  
A RESOLUTION REMEMBERING ROBERT H. HEGNEY  
FOR HIS DEDICATED SERVICE TO LOWER SAUCON TOWNSHIP**

**WHEREAS**, Robert (Bob) Hegney, age 53, was an active member of the Township’s Se-Wy-Co Fire Company where he served for over the past six (6) years in the positions of Secretary and Treasurer with the Relief Association, and since 2004 as its Lieutenant; and

**WHEREAS**, Bob joined the Se-Wy-Co Fire Company in 2001 after having served in various leadership capacities with the fire company in Hastings-on-Hudson, NY where he previously resided; and

**WHEREAS**, Bob had over thirty-three (33) years of combined service as an active and exempt member of these volunteer fire companies and was highly respected for his experience and leadership; and

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**WHEREAS**, Se-Wy-Co Fire Company and the Township is saddened by the sudden loss of a friend and firefighter who gave so much back to the community that he loved.

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of Lower Saucon Township, Glenn Kern, President; Thomas Maxfield, Vice President; Priscilla deLeon, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; hereby honors the memory of Robert Hegney for his devotion and service to the Se-Wy-Co Fire Company and the residents of Lower Saucon Township.

ADOPTED and ENACTED this 7<sup>th</sup> day of February, 2007.

**MOTION BY:** Mr. Horiszny moved for approval of Resolution 32-2007.

**SECOND BY:** Mrs. deLeon

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

**ROLL CALL:** 5-0

Mr. Thomas Barndt, Chief of Se-Wy-Co said Lieut. Robert H. Hegney, age 53 passed away on Saturday, February 3, 2007 at St. Luke's Hospital in Bethlehem. Bob leaves behind a wife Peggy of 29 years, a son, age 24 and a daughter, Allison, age 21. Bob joined Se-Wy-Co Fire Company in April 2001 was the fire department secretary and has been a Lieutenant since 2004. Bob responded on a dwelling fire in LST the afternoon of February 1, 2007, attended training at Se-Wy-Co that evening and complained of feeling sick that evening as well as on Friday, February 2, 2007. Bob had no prior medical conditions and took no medication. Bob was later transported from his home to St. Luke's Hospital early Saturday morning where he died of a heart attack. Mr. Barndt has been in communication with PA State Fire Commissioner, Ed Mann, and his office has assisted him greatly. Commissioner Mann also attended the viewing last evening and a representative from his office attended the funeral services today. Bob's death has been listed as a Fire Department Line of Duty Death within the U.S. Fire Administration.

**A. ORDINANCE 2007-02 – PUBLIC HEARING AND CONSIDERATION OF ADOPTION – SALDO AMENDMENTS**

Mr. Kern said ordinance 2007-02 has been advertised for a public hearing and consideration of adoption. This ordinance amends our current subdivision and land development ordinance by establishing regulations, standards and procedures for the processing, approval and construction of subdivisions and land developments.

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

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

Mr. Kern said the public hearing is now open, is there any comment from Staff or Council? Mr. Birdsall said this is basically a clean up amendment bringing the ordinance up to date with some standards that have been passed recently. For instance, the type of paving that is now available has been amended to reflect what's available on the market place. They've tightened up on the pipe quality for storm water a little bit compared to what it was. It readdresses the procedures for submission. It gives a requirement for notice to adjoining property owners and brings up some of the engineering loose ends - not necessarily changing the planning goals at all as the ordinance, as a whole, is in the works for reconsideration over the next 24 months. It does clean up some things that need to be cleaned up in the meantime.

Mr. Horiszny said on page 12, under c, it talks about stream discharge where it won't be approved unless a development site is indicated to be unsuitable and it's not suitable for surface or subsurface

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application of treated sewage effluent. Is there any way we can be stronger about that? Make them do something? Don't put it in a stream no matter what? Mr. Birdsall said it may be more of a legal question than it is an engineering question. This is about as tight as he's seen it, but certainly he would defer to Attorney Treadwell.

Attorney Treadwell said it still comes back to the phrase, "to the satisfaction of the Township Council" you can control that to a certain extent. You can't just prohibit it. Mrs. deLeon said what legal basis would we have to say no then? If it's up to us, usually that argument doesn't fly? Attorney Treadwell said when we have it in our ordinance to the satisfaction of Township Council, obviously someone could challenge it but this is the best way to protect you – we can't prohibit it.

Mrs. deLeon said the LVPC letter dated January 26, 2007, which talks about two issues. The second one they talk about is the use of privately owned central sewer water system to serve developments conflicts with the County Comprehensive Plan. They say across the Lehigh Valley relying on HOA's or developers to maintain sewer/water utility has led to poor maintenance and failure of the infrastructure. We recommend that if central systems are used, the township be responsible. She agrees with the recommendation to a point, but she doesn't agree that the township should have to take it. She's had issues with these centralized systems and she wants to know what we can do to protect the Township? Attorney Treadwell said we cannot prohibit centralized systems. The Township, in our past experience, wants to take over the maintenance of them. What we normally do if there is such a system is enter into a maintenance agreement and take security to make sure they do it.

Mrs. Yerger said isn't it somewhere there is the option that we can take it or the LSA could take it? Attorney Treadwell said if they chose to take it. Mrs. deLeon said what happens if the LSA says no and the ownership says no? Attorney Treadwell said then we enter into an agreement with the HOA requiring them to maintain it and we take security. Mrs. deLeon said she's bothered by that. Mr. Kern asked how long the security would last? Attorney Treadwell said normally it's perpetual. It depends on the size of the system, but we hold security to make sure the HOA will maintain it. If they don't, we have the money to go in and do it. We have the right, but not the obligation to go in and maintain it. Mrs. deLeon said doesn't our ordinance have to be consistent with LVPC plans? Attorney Treadwell said no, it's the LVPC's recommendation. Our ordinance is a little more restrictive than what they have.

Mr. Birdsall said on the bottom of page 12 and on the bottom of page 13, one talks about sanitary and the other talks about water. It says "when such a system is proposed, it must be offered for dedication at no cost to the township or the LSA. The township or LSA may or may not accept dedication at their discretion." It puts you in the driver's seat to look at the financial feasibility of each system as it's presented.

Mrs. deLeon said what about the first one, Section 145-19(c) (5) states that it is the applicants responsibility to apply for reviews by outside agencies. This appears to conflict with the MPC. She knows we can't be more restrictive than the MPC. Attorney Treadwell said right, but the PC's letter says it appears to conflict and it doesn't because the MPC says it's the requirement of the township to make sure it gets to the county PC, not that we have to submit it. This puts the township in a better position by requiring the applicant, once we receive the application, to then submit it to the LVPC so it's not our responsibility to do so. Mr. Kern said we have a way to check that they have forwarded it? Attorney Treadwell said they need to send it back to us and show us they did it.

Mr. Kern said on page 7, first word, first paragraph should be "Council" not Commission.

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Mrs. deLeon said on page 4 under Section 6, it says it's amended by changing five (5) days to thirty (30) days. She doesn't know what it's talking about. Mr. Cahalan said 145-18D now says "failure of the developer to provide review agency comments which the township considers necessary for approval shall be ground for denying an application. Copies of said comments shall be provided to the ZO and the Township Engineer a minimum of five days before the PC meeting at which action is to be taken." That will be changed.

Ms. Chris Thompson was sworn in. She asked would these changes be retroactive to people who've already submitted? Attorney Treadwell said no.

**MOTION BY:** Mr. Horiszny moved to close the hearing.  
**SECOND BY:** Mrs. Yerger  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**MOTION BY:** Mrs. Yerger moved to approve Ordinance 2007-02.  
**SECOND BY:** Mr. Kern  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**B. ORDINANCE 2007-03 – PUBLIC HEARING AND CONSIDERATION OF ADOPTION – FIREARM ORDINANCE**

Mr. Kern said ordinance 2007-03 has been advertised for a public hearing and consideration of adoption amending our current firearm ordinance.

**MOTION BY:** Mrs. Yerger moved to open the hearing.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

Mrs. deLeon said at the last meeting, she thought we were going to table this and it was going to be brought back to Council. If you look at the minutes from last month, it says "Mr. Maxfield moved to table this agenda item, Second by Mrs. Yerger and the motion passed 5-0. The last paragraph says Mrs. deLeon said that by adding "with permission of the property owner" would be appropriate in No. 9. This is being considered for advertisement. Attorney Treadwell said No. 9 there was a change, No. 8 there was a change, so he'll bring it back again before advertisement.

Attorney Treadwell asked if it was not advertised as it exists tonight? Mr. Cahalan said yes. Attorney Treadwell said we made the changes and brought it back. Mrs. deLeon said that's not what we voted on. We voted to table it, so how could we be legally talking about an ordinance that was advertised tonight? Attorney Treadwell said we made the changes that were recommended by Council and now it's back here for your consideration. Mrs. deLeon said that's not what the minutes said. Mr. Kern said if you are not pleased with the changes, you can table it again. Attorney Treadwell said if you want to put it off, you can make a motion to re-advertise it. It's been advertised and ready for adoption. Mr. Maxfield said he doesn't want to spend the money to re-advertise it again. Mrs. deLeon said she doesn't either, but she would like our motions carried out. Mr. Kern said the changes we requested are included? Attorney Treadwell said yes, they are. Jack, Leslie, the Chief and Attorney Treadwell have spent a lot of time on this ordinance and they think it's ready for Council's adoption.

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Mrs. deLeon wanted to go over the changes. Mr. Maxfield asked if there was a problem with the changes we recommended already? Mrs. deLeon said we have a room full of people here and we owe them an explanation of the progress we made to get to this point. Mr. Kern said the item we had changed is underlined; does anyone have any objection to the way we requested it to be reworded? Mrs. Yerger said it's the same in 8 and 9 which basically says "unless permission has been previously obtained, it continued to be in effect, from the neighboring property owner where the projectile might land". The preceding one is "where unless permission has been previously been obtained and continues to be in effect, from the owners of the structure referred to in section 8". It basically is making sure that it does cover our concerns about being able to get permission from the landowner.

Mr. Kern asked if anyone in the audience had any comment? Mr. William Books, resident, said he wants to thank Council for the changes that were made and they are to be complimented on the ordinance.

Mr. Robert Rogers, resident, said there was a lot of thought put into this. There was one area that he would like some consideration on. In paragraph 1, where they are talking about whether or not the weapon is dangerous enough, it's left to the discretion of the law enforcement officer. He was wondering if they could widen that or put it into another area where it concerned the target practice. If somebody conducted a private range or had a range on their property, even though it was within 150 yards, if it was properly constructed that it did not infringe or impact upon the health, safety and welfare or the enjoyment of use of another persons property, even though it was within 150 yards and that the police used the discretion that it was a safe range, even if they could not get permission from everybody within 150, if the neighbor didn't like me for some reason or they were anti gun, but yet, what if I had a range that was safe. He had given the Chief an explanation of this in his former house where he had a pistol range in his basement constructed in such a way that there was no way the projectile could leave the house or the basement. There were several houses within 150 yards (he lived in Richlandtown). If somebody does have something like that, he would like to see a discretionary thing in there and that was the only part he was bothered with and he wanted to know if that could be added.

Chief Lesser said it sounds reasonable relative to the safety of the backstop. His officers sometimes make that judgment, on occasion, relative to the ordinance. There is a specific section that deals with a safe backstop. The 450 foot distance deals more with than just the backstop – the sound of the firearm also. He has hunted and they practice their firearms in the PD every year, and he's familiar with discharging firearms. He has no opposition to that. Multiple discharging of a firearm can be disturbing to any neighbor. The 450 feet adds to the safety and deals with more aspects than simply the backstop. They do support the continuation of the 450 feet which has been in existence for several decades. It is the identical distance that the PA State Game laws use relative to hunting within a residence. In a sense, it has similarities to our ordinance.

Mr. Rogers said that's why he said about the health, safety or impact upon the enjoyment of the use of their property because definitely if someone was firing a high powered rifle or multiple pistol shots continuously near his place, it would bother him. What he actually had in his Richlandtown house was an air pistol range. He could have actually fired a 22 pistol in there if he just changed the backstop a little bit and he doesn't think the noise would have permeated outside the building. He's mostly thinking about if someone sets up an air pistol or a pellet gun range, the officer may still use his discretion as to whether that is a dangerous weapon or not. He wanted to state it more clearly that if he was firing in a direction and everything was well with the range, with a pellet rifle, he would be protected and that's the only part he had a concern with. Mrs. deLeon said how do we cover that in the ordinance, leave the door open a little bit for different circumstances, but not leave it open too far? Attorney Treadwell said he thinks we do to the extent that we leave it to the discretion of the officer to decide. We can't cover every single base. Mrs. deLeon said she

questioned that at the last meeting and it could be reversed the other way with a problem with an officer. Just because it's mentioned in this one paragraph, does that imply that he uses his discretion through the rest of the ordinance? Attorney Treadwell said the discretion applies to whether or not the weapon is danger enough to be encompassed by the ordinance. Mr. Maxfield said would your neighbor, theoretically, give a hard time about a pellet or air gun target? He couldn't imagine that. Mr. Rogers said considering what he's going through with his former neighbor – yes. What Mrs. deLeon had said was that later on, put in Paragraph 11 about the discretion of the range itself, whether it is safe. Mrs. deLeon said it should be at the discretion of the officer. Mr. Rogers said Paragraph 1 only refers to the fire arm. That's why he was asking if it could be clarified or widened in Paragraph 11. Mr. Horiszny asked if it really controls people inside their homes, in an enclosed building? Attorney Treadwell said technically it does, as the Chief said, if it's a noise issue and a chance that it goes through the wall and the backstop isn't good enough. We can't cover everything. Mrs. deLeon said the Nuisance Ordinance should cover things that aren't regulated in the specific ordinances. How can we include this in the paragraph? Attorney Treadwell said if Council's determination is that you want us to re-look at it, we can do that. Mrs. deLeon said an option is to pass it as is and then amend it too. Mr. Maxfield said he is leaning in favor of maintaining the distances that are stated in the ordinance because we're talking about leaving it up to the discretion of the officer. Discretion when it comes to determining whether a weapon is considered dangerous or not is different than two different officers coming out at two different time and determining whether a range is safe or not. That may cause more problems than what it would solve. He'd personally like to see it as clean as possible. If we maintain those distances, that is closer to what he'd like to see.

Chief Lesser said as Tom had said, they would prefer that it is clean and as clear as they can possibly make it while at the same time, an attempt to deal with the variety of circumstances it will encounter. Limited discretion can be beneficial. Our primary concern is what we would all normally refer to as firearms. An air type pistol, rifle, BB gun, that's the type of complaint we rarely respond to as a PD unless there is some damage associated with it. He doesn't know that they've ever responded to just a complaint of someone discharging an air gun or a BB gun in their yard. Mrs. Yerger said there are no standards either for backstops? It has to be so thick, by so big, because the propellant is so strong. There's no standard they could even measure these by? Chief Lesser said there's no standard that our officer's would utilize. There are several gun club members here. There are recommendations and good sound procedures to certainly increase the percentage of a bullet not leaving an area you want it to leave from, whether it's angles, thickness, just a variety of items that are involved in a backstop. Our officers are accustomed to that. Mrs. Yerger said it increases chances of subjectivity and individual determination like Mr. Maxfield was talking about and that starts muddying the waters. Mrs. deLeon said it would still be up to the discretion of the officer whether or not the back stop was sufficient. It says it is unlawful to discharge any firearm at any target which shall have insufficient backstops. If it's not defined, who is going to determine whether it's insufficient or not - the officer. Chief Lesser said the officers have, it's been in the ordinance since its inception. Mrs. Yerger said if the projectile leaves and goes through the backstop, you are going to know it's not working. Mr. Rogers just brought it up as he didn't know if they needed to have that discretionary put into the other section to cover, not only the firearm, but maybe the way the firearm was being used.

Ms. Stephanie Brown, resident, said she's upset about this ordinance. Where she lives, she won't be able to shoot bow and arrow anymore, but she hasn't done it in years. You want to leave things that are a question, to the Nuisance Ordinance. Her prior complaints about the Nuisance Ordinance and the Police force, is that it doesn't work. She's curious what we can do to fix that? She wanted to know if the township was still facing a federal lawsuit over this? Attorney Treadwell said there's a rumor, but they haven't seen anything. He doesn't think the rumor is about this specific ordinance. Mrs. Yerger said the reason for this ordinance is to take it out of the realm of the

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Nuisance Ordinance to give it more specific criteria. It's to improve the ordinance and not fall back on the Nuisance Ordinance on this particular issue.

Mr. Horiszny said in the ordinance where it says "and Atlatl", it should say "or Atlatl" on page 4, 5 and 6. Attorney Treadwell said it will be changed.

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

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**MOTION BY:** Mr. Kern moved for approval of Ordinance 2007-03, with the corrections, the Firearms Ordinance.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

Mrs. Yerger thanked everyone who was part of this discussion as it was very, very helpful and helped create the ordinance in the interest of the community. Mrs. deLeon said we didn't want to restrict hunting in the township and wanted to still allow for that.

**C. ORDINANCE 2007-06 – PUBLIC HEARING AND CONSIDERATION OF ADOPTION – SEVERABILITY CLAUSE ORDINANCE**

Mr. Kern said Ordinance 2007-06 has been advertised for a public hearing and consideration of adoption to amend specific ordinances which would make the severability clause in these ordinances consistent with our other ordinances.

**MOTION BY:** Mrs. Yerger moved to open the hearing.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

Attorney Treadwell said they recognized over the past couple of months that they had severability clauses that differed in their language and all it did was clean it up and make them all the same. It was authorized at the last meeting for advertisement.

**MOTION BY:** Mr. Maxfield moved to close the hearing.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**MOTION BY:** Mr. Kern moved for approval of Ordinance 2007-06.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**D. ORDINANCE 2007-07 – PUBLIC HEARING AND CONSIDERATION OF ADOPTION – CROSSING GUARD ORDINANCE**

Mr. Kern said ordinance 2007-07 has been advertised for a public hearing and consideration of adoption to enter into an agreement with Hellertown Borough and the Saucon Valley School District to provide crossing guard service.

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

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

Mr. Cahalan said this will allow the township to enter into an agreement with Hellertown Borough and the SV school district to pay for the school crossing guards at the SV School District campus. It was an issue that came up at the SV Partnership and there was some agreement that the township should participate in a three way split of this cost because the students from the township are utilizing the crossing guards when they are dropped off at the school campus. The total projected cost of the guards who are employees of Hellertown Borough is estimated at 2007 to be \$12,997. Split three ways the township's share would be \$4,332/year. There are three guards who are employees of Hellertown Borough. In the agreement, there was a question where it had originally listed the employees had to be residents of the borough. That was checked into and there is no requirement for that in Hellertown Borough, so that has been changed to read that they are residents of the SV School District. With Council's adoption, we would sign off on the articles of agreement that are attached. The school district has agreed to that. Mr. Horiszny asked what if they couldn't find any SV school district resident, would they have to come back and alter this? Mr. Cahalan said they would have to amend the agreement.

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

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**MOTION BY:** Mrs. Yerger moved for approval of Ordinance 2007-07 for crossing guard ordinance.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**IV. DEVELOPER ITEMS**

**A. ZONING HEARING BOARD VARIANCES**

**1. T-MOBILE NORTHEAST – 1462 E. UNIVERSITY AVENUE – REQUEST VARIANCE FROM SETBACKS TO CONSTRUCT 72' COMMUNICATION POLE AND EQUIPMENT CABINETS**

Mr. Kern said the applicant is proposing to construct a 60' communications tower and need zoning relief from setbacks, impervious coverage and painting.

Phil Berger, the engineer, was present. Attorney Eric Schock was present. They were here on the project before and received Council's comments. They have revised the plan to

reduce the height of the structure at 60 feet. They shifted the location of the structure to achieve what Council was looking for. With a now reduced 60 foot height of the structure, they've shifted it so that they are 79 feet, if you're looking to the west, from the nearest structure, 82 feet to the south, and 111 feet to the east. The house across the street is well in excess of the 60 feet because it's 74 feet to the front property line and then you are separated by the lane. What they wanted to achieve on the property was to be as far as they could from all of the structures, yet never within 60 feet of any of the homes. Those changes have been made.

Attorney Schoch said the reason they are back is because of the impervious coverage and the slopes. They needed the variance when they came last time, they just didn't know it. They now have added it and if you look at the chart for the site capacity calculations, there's only 228 square feet of cover that would be allowed on the lot. There is really no use you could use. They are asking for the minimum variance. Our use is only 480 square feet of impervious. When you look at it in the grand scheme of things, yes, they need a large variance to the extent that it's 100%, but they only actually need 252 square feet. That's because of the strict woodland ordinance. Attorney Schoch said they don't do any more clearing other than what is the bare minimum that they need for the site.

Mrs. Yerger said in the other variance requesting as far as the front and rear setbacks, it says you are now requesting a variance to install cabinets as close to 8 feet from the property line. What property line? Is it close to the structure? Attorney Schoch said it's the internal one between the two properties owned by their landlord. It's currently a separate tax parcel. The fence meets the setback of three feet, but the cabinet is deficient to the interior line.

Mr. Birdsall asked last time there was consideration of you merging the lot, wasn't that an issue last time? He thought they had agreed to do that? Attorney Schoch said they agreed to propose that to the owner, which they have. He initially indicated he did not wish to do so because he was concerned about tax considerations in merging the lot and what the impact would be on the taxes. We have put it to him and he said it may become an issue at the Zoning Board, but at this point, his initial reaction was he didn't want to and candidly, it didn't change anything on the ground. It only relieved them from the one internal setback and they still need the other side yard setback because they can't shift over to his land. They can address that with the Zoning Board at that time.

Mr. Kern asked if there were advantages to consolidating the lots? Attorney Treadwell said other than taking away that need for the one variance. Mr. Birdsall said it's a broader issue that it reduces the nonconforming of that lot. Right now, it's very nonconforming. He's using that as an argument for his increase in impervious cover. The concern we all have with isolated lots like this is at some point and time someone would put a house or want to put a house on that lot and then claim the lot is existing nonconforming at that time. Whenever we have the opportunity to merge lots and to reduce the nonconformity, we try to do that. Mr. Kern asked if there was any option for the township to make it a condition? Attorney Treadwell said you could oppose the zoning application unless they agree to a condition that they consolidate the lot. Mr. Kern said how did we leave this issue the last time? Attorney Treadwell said we told the applicant to come back and try and minimize all the variance that they needed. Attorney Schoch said they will again talk to him. His initial reaction was the thought of the tax issue. If the application were to be denied for that, they will have to decide if he wants it or not. It's not their call at that point. He can choose as he may. Mr. Kern said in the future when there is no cell tower and there is a desire to put a house on there, what is the advantage of having the lot consolidated? Attorney Treadwell said it's a bigger lot than would meet the zoning criteria than the two

smaller ones would at the moment. Mr. Birdsall said the concern is there's already a house on the one lot. If he took the cell tower down, it would be an empty lot and someone could argue that they would want to put a house on that empty lot. It's very, very small, but they've seen some pretty big battles over some pretty small lots. Mrs. deLeon said by combining the lots, it wouldn't be two uses on the lot for the cell tower and the home? Mr. Birdsall said it could be, but then it would be addressed by the Zoning Hearing Board. Attorney Schoch said it would eliminate the side yard setback variance and potentially it could eliminate the impervious if you included the whole lot. He doesn't know if it will as the whole lot is similar to the section we're on. They wouldn't be able to guess at this point.

Mr. Maxfield said when you spoke of the setbacks from the buildings, he's not exactly sure how the ordinance is written, but you were referencing the dwellings basically. While there are garages there too, he sees they have the distances drawn to the garages. Those are buildings that at one time may contain people, and may be in danger of being hit by a falling pole. He just wants to make sure that the ZHB also realizes that those buildings exist and could be dangerous too. Attorney Schoch said the one that is within the 60 feet is their own landlords. It's a 37 foot one. You are correct. There are no residences. There is the one story framed garage which would fall within the 60 feet and that would be the owners.

Mrs. deLeon thanked them for their supplemental statement. It's kind of concise, but the hardship was not self created, that's true. Woodlands on the subject property are pre-existing and they are valuable.

Mr. Horiszny asked if there was a T-Mobile tower at the Salisbury yard waste facility and they've got a tower that's a single pole and a tree? Attorney Schoch said they weren't proposing a tree. They were going to propose the wooden structure. There are PPL structures that are wood and are as tall as theirs. They are doing the visual simulations to show the wood pole versus the metal pole and present that to the board. What they'll find when they look at those is that while it's a taller version if PPL came back and needed to put a taller pole in the community. They asked Mr. Horiszny if he had predilection to the tree? Mr. Horiszny said they are different and they do hide it, but you've got a weird tree that looks like a big pine tree with all the same length branches, and then all of a sudden at the top, you've got four antennas. Attorney Schoch said that's one of the arguments they made. If it really doesn't stick when it becomes part of the landscape in an area where there are other poles within a relative height of it, but then when you attach the fake tree ornamentation, you are drawing attention to it. Mr. Horiszny said if anyone wants to see one, this was on the intersection of Honeysuckle and Black River Road.

Mr. Horiszny said he's inclined to take no action. Mr. Maxfield said if the applicant is willing to go back and try it again, maybe we should try to the "opposition unless consolidation" approach because we are in the business of trying to make these nonconforming things more conforming. If it will eliminate a setback, that's fine. If the applicant agrees to it, then we don't throw their time schedule off and they just proceed. Mrs. deLeon said that means you can't go to the ZHB this month, you'd have to wait until February. Attorney Schoch said he would hope it means they can talk to the owner. Plan B would be they'd realize they have to do something.

**General Business & Developer**  
**February 7, 2007**

- MOTION BY:** Mr. Maxfield moved for a motion to oppose the ZHB application unless the property owner agrees to consolidate the two lots.
- SECOND BY:** Mrs. Yerger  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

**2. PIERPONT SLATER PROPERTIES VARIANCE – 3493 RT. 378 AND COLESVILLE ROAD – REQUEST VARIANCE TO ENCROACH INTO FRONT YARD SETBACKS FOR PARKING FOR A PROPOSED BANK BUILDING**

Mr. Kern said the applicant is requesting two variances to construct a bank at this property. The applicant is proposing to place a parking area within the required front yards. The applicant is also proposing to continue the exiting billboard use and add a second use (bank).

Ken Duerholz and Andy Warner were present. Mr. Warner said they wanted to move forward with the primary variance which is the parking. Just in case things don't work out with the billboard, that's what they are talking about the principal use issue as well. They want to be upfront on all the things they are talking about. Ken Duerholz will be building the bank if things move forward.

Mr. Duerholz said the property is along the east side of 378 and Colesville Road. It butts out into Upper Saucon Township. The owner would like to put a bank on this property, at 2,460 square feet. It's showing the primary entry is coming off of Colesville Road circulating around into a parking area and a drive through. There is a right turn exit only on 378 as well as a right turn entry off of 378. It's a preliminary site plan. When laying this out, it became evident the property has two fronts which means it has two front setbacks. Mr. Kern asked Mr. Birdsall what the implications of encroachment would be? Mr. Birdsall said if he understands the drawing correctly, along Colesville Road, it would be nine parking spaces that would encroach. Mr. Duerholz said that would be correct. Mr. Birdsall said knowing the site a little bit, there is a rather large drainage swale that leaves Route 378 and travels east parallel to Colesville Road so what that would mean is the parking area may encroach into that drainage swale. The landscaping that is shown there may encroach into the drainage swale. We don't know whether that's the proper setback for even respecting Colesville Road. If there is a survey and then a setback for the right-of-way dedication, there actually may be more of an encroachment than shows here, especially when you get close to Route 378. The more the front yard is encroached upon, the less ability the property owner has to provide attractive landscaping in the front. If it encroaches so much that it gets close to the road, then there could be a difficulty later on if the state wanted to increase the size of the road they might be encroaching on to, improvements that are already there. Basically, the front yard setback is aesthetic mostly.

Mr. Kern said if the state, in the future, does decide to increase the road size, which is a possibility with the casino in Bethlehem, what would the implications be at that point? Mr. Birdsall said the main route into the casino would be 378, so as a relatively small encroachment that they are suggesting on the 378 side if these right-of-ways are shown properly – if the 80 foot right-of-way is shown according to our ordinances, they only show a corner of two spaces encroaching. The implication would be that it might be more costly for PennDOT to acquire additional right-of-way because they would be essentially taking a corner of those two parking spaces or effectively remove one or two of those parking spaces. Typically, when the setback is 50 feet like this, the highway widening wouldn't be so severe that it would need to take that parking space, but it may mean that a little

retaining wall or something there would have to be put in there as the highway came closer and closer to that parking space. The front yard setback and the aesthetics would be tighter and tighter as far as any landscaping they could do in the front yard. He wouldn't be worried too much with this plan about PennDOT's additional needs on 378 because the encroachment is fairly small. He'd be concerned about almost 22 feet of encroachment along Colesville Road and the swale and aesthetics associated with Colesville Road.

Mrs. Yerger said there's going to be a traffic study done? Mr. Birdsall said our traffic study requirement is triggered after the applicant looks at the traffic needs and if it triggers more than so many trips per day, then a full traffic study is warranted. That would be our local ordinance. The state will require information about this intersection before they would allow either one of these driveways and they would have to do a whole analysis of this intersection to see how far vehicles back up on Colesville Road to check the left hand turn as you are coming off of Colesville Road, and the stacking and movement on Colesville Road.

Mrs. deLeon said an opened alley that butts out on Colesville Road, did you already assume half of it? The open alley says only 10 feet wide? Mr. Warner said it is small. Mr. Duerholz said he doesn't think that has been claimed as part of this property on the setback information. Mrs. deLeon asked how wide are the parking spaces. Mr. Warner said they meet your ordinance. The engineer looked closely at the ordinance to make sure. Mr. Birdsall said they need to be ten feet and it looks like they have ninety feet and nine spaces.

Mrs. Yerger said if you would have to retain the billboards, where would they be located? Mr. Duerholz said if they needed to be retained, they would try to put them off to the side. Mr. Warner said the hope is to move them further north and what Adams has said, if we can't, they would actually reduce it to a single story billboard so it's not as quite unsightly as it is now, but get a billboard that faces both north and south. They would deal with that accordingly with the Township if they are unsuccessful.

Mr. Maxfield said they got a month or so ago something from Upper Saucon telling them they were studying this intersection for a possibility of a light. He asked if they are in contact with Upper Saucon and were they aware of that? Mr. Warner said he is not part of it. Upper Saucon contacted them just because of his dealings with Upper Saucon and other issues. They just made reference to it that a gentleman that lives on Colesville Road wrote a letter to them and he also happens to be involved with PennDOT to an extent that they are going to initiate a better study of that intersection. He lives down there and he goes out that road and it's not the greatest intersection in the world, and it's a matter of when, not if, that something needs to be done with that intersection. In reference to the drainage ditch, they certainly are well aware of the ditch and that's been taken into consideration of what's been laid out here. Their goal is to certainly clean up the lot and improve the landscaping, the entry way into the township, and make sure that any landscaping that has to be done has consideration of that drainage ditch because they would keep that ditch, but clean up the banks associated with the ditch, except for the areas that they need to gain access into the lot.

Attorney Treadwell asked if Mr. Birdsall and Mr. Tralies reviewed the plans? They said no. Attorney Treadwell said his question to Mr. Warner is before they go to the ZHB, do you want some kind of review from the Township Planner and Engineer so you don't have to go back a second time if they decide there is something on your land development plans that don't meet the zoning ordinance. Mr. Warner said they discussed this with the people involved on his side of the project and they did meet with Chris Garges separately, and they felt they should go towards Zoning first. He's always learning in this process and

appreciates the commentary and maybe they should have some additional discussion about it, but they felt the first natural step was going towards Zoning. Attorney Treadwell said it is, but his only recommendation is before you go to Zoning, you might want to make sure the Township doesn't have any other zoning issues that aren't on your application right now. Mr. Warner said okay, other things that professionals he hired for this project might not have picked up on their own. Attorney Treadwell said not necessarily not picked up, but if you go to Zoning and get the two variances that you asked for and you come back with a land development plan, and our Planner or Engineer says here's one section that you need to go back to Zoning for, it only makes sense to go once. Mr. Maxfield said this is our one opportunity to comment before the ZHB and it feels having seen the plan for the first time tonight, it seems very premature. He thinks the township would appreciate if you would follow Linc's advice. Mr. Warner said that advice is again just because the planners can take a closer look at all the ordinances associated with LST to again make sure that his people have done their job appropriately for them to move forward on this project. Attorney Treadwell said he doesn't want to say your people did the job appropriate, but they've done what they've done, but sometimes there are disagreements as to what sections apply and what doesn't. Mr. Birdsall said that's a tough characterization to put on your consultants because he doesn't see any topography and drainage. Maybe they haven't been authorized to do that, but if they did the tree count and the woodlands and the swale and the drainage, you say it's a ditch, but to some people a ditch is a creek. A ditch needs a 100 year flood plain and one thing adds to the other. Even if this was reviewed by Mr. Birdsall at this stage, he just has so many open questions, you'd have to do a much more investigation to have a meaningful list of variances that you would need. Mr. Warner said they have certainly tried to think of a lot of different things and had people take a look at it to make sure there are no wetlands, and not part of a riparian corridor. They've had the topography done, it was surveyed, and they have a traffic study going on for the property. They think it's a great project for the township and a great project for everybody involved, but they also understand there are rules associated with it. They want to make sure they follow those rules. If you feel it's more prudent for him to go to Planning and come back to Council and then go to Zoning again, is that direction he needs to go? Attorney Treadwell said he thinks so as you may have done all that work, but he doesn't think we have it, and no body has reviewed it from the Township's standpoint. From your perspective, he would want Mr. Warner to go to the ZHB and best case scenario, you get these two variances and then you think you can build it and then you come back and the Township says you have some other issues. It makes sense to get them all out on the table before you go.

Mr. Birdsall said regarding the storm water runoff, there are two characteristics of storm water runoff. One is the definition of the channel and whether it's a riparian corridor or not a riparian corridor and that can be done without a calculation of runoff and a calculation of recharge and a studying the soils for recharge and storm water management. He doesn't think they are saying they'd be encouraged to go that far, storm water management, recharge, Act 167, but at least get enough on paper so that the Zoning reviews, the trees in particular, and this riparian corridor thing can be checked out. Those are pretty big concerns. The natural features may impact your ability to have impervious cover and unless you know what the natural features are, and we don't see natural features on those plans, you don't know what your buildable density is. He would encourage them to at least go that far and get their natural resources protection established so you know what impervious cover you have and whether you have a riparian corridor. It sounds that they are very close to that if they have the topo done. Mr. Warner said they will go back and figure it out and then go to Planning and come back to see Council. Attorney Treadwell said he doesn't know if you actually have to go to Planning first. If there is more

information you could submit to Council before you go to the ZHB, so that maybe Jim Birdsall and Rick Tralies could take a cursory look at it and say we think you're okay.

Mr. Warner will give Chris Garges an extension so they can come back again. Mr. Birdsall said public sewer or not public sewer? Mr. Warner said their hope is not public sewer. There's an existing sand mound that's been used for a house that's just become vacant and their hope is to be able to use that.

**3. BRUCE AND SHARON ROGORA – 4220 LOWER SAUCON ROAD – VARIANCE REQUEST OF WOODLAND DISTURBANCE**

Mr. Kern said the applicant is requesting a variance from the allowable resource disturbance for a dwelling that was constructed at a location other than what was approved on their permit.

Present – Bruce & Sharon Rogora, owners, and Alex Patullo, the builder. Mrs. Rogora said as they look at the issue of woodland disturbance that brings them here tonight, her husband and her feel it resulted from some misunderstandings. As a professional couple about to retire, they were hoping to realize the lifelong dream – a new home on a few acres in a rural setting. They finally chose LST to fulfill that dream because of its beauty and its tranquility. They chose Mr. Alex Patullo as their builder over many other builders. The quality of his work spoke for itself. They looked forward to living in and being a part of the beautiful community he built known as Woodland Hills. It's a project LST can be proud of to call it their own. We couldn't wait to become a part of it. This was a brand new experience for us. Novices that we were, we had a lot to learn. Now that the house is built, we marvel at the sights and the sounds of our new home. Many of my chores don't get done or meals aren't made on time because I'm busy watching the deer walk by. Often they are in my windows looking in at me to see what I am doing. Of course, they are on their way to nibble on my newly planted landscape, but I don't mind at all. We are also environmentalists. We recycle everything to make sure the landscape is not abused. We appreciate the forest, the vegetation it provides the wildlife. We grew up with those values and we're not about to abandon them, but rather embrace the beauty of it all. We are a give back couple and we have much to offer. We hope the community of LST will give us a chance. No malice was ever intended, and we apologize for our part of the misunderstandings. Thank you.

Mr. Patullo said the first grading plan they had done showed an enormous retaining wall. This is a four acre lot. The retaining wall was ugly, so they wanted to move the lot. He said you can move it, but you are going to have to redo a grading plan, submit an as built and at that time, the Zoning Officer may grant us an okay or he may say no. In doing so, they put the house up on top of the flatter area. They disturbed a little bit more than they should have based on the fact that the road is a state road and the DOT made them take a whole bunch of trees down. The disturbance around the house entails about 30 to 40 feet, and they disturbed as little as possible - barely enough to get concrete trucks in there to construct the house. By doing that, they made the driveway a little bit longer. Some of the things that were required on the site, after the plan was approved, the DOT made them take a whole bunch of trees down to create a line of site for a stop sign that could never be seen. His wife was involved in an accident there because somebody came up around the corner and didn't know they had to stop. Any lot they built up there, they are kind of woodsy and long lots, PPL decided they needed to bring power to the house, so they disturbed a certain amount of trees again. The lot is fully treed and if they disturbed anything, 80% is still intact. As far as the runoff, what they did when they graded the lot was put a swale as to pick up all the runoff that comes down and defuse it into the woods. When they build a

driveway, they are asked to swale it so it's diffuses the water as it's coming down so it's not channeled straight down. They did that. The only part that is enclosed, with a bank on both sides, is 75 feet. At any given time when it rains, any water is shed off of that driveway. Breaking the rules by taking out extra trees by 10% or 11%, they tried to do the best job they possibly could.

Mr. Kern said he can appreciate everything he said, except he did all that work without getting a permit to do all that work and the whole purpose of zoning in this township is to make sure it's done properly. He trusts Mr. Patullo's experience, but it needs to be reviewed by Staff before those changes that you made were made, and that didn't happen. Mr. Rogora said they were unaware of the 20% regulation. The fact that the DOT made them pull down some of the trees, cuts into that also. If you subtract out the DOT portion, they are much closer to that 20%, but they are still over. Mrs. Yerger said the fact remains that your developer chose to ignore a cease and desist order. Mr. Patullo said he addressed that. He called the Zoning Officer and told him he would bring him the as built and a new grading plan because they moved the house. They did that. Mrs. Yerger said the cease and desist order went out in February. Chris was in receipt of the as built grading plan in October. You continued to build the house between February and October. Attorney Treadwell said he understand the Rogora's own the property, but who was the builder responsible for building the house. Mr. Patullo said "me". Attorney Treadwell said you got a cease and desist order in February and you continued to build the house in October when you submitted an as built plan that showed you didn't comply with the original plan that was approved. We've had this issue before with you and the Township. You've built enough houses to know that if you need to move it, you need to come back to the Township and show that you still meet the requirements of the Zoning Ordinance and the approved plan. Mr. Patullo said you are absolutely correct. When they put up a house, they usually don't do an as built until the house is done, so that was a mistake that was made. They didn't do it on purpose.

Mr. Maxfield said the Rogora's have an excuse – they are novices, they bought a house. You were their guide through this system – a system that you worked in before. We're here at this point and we have recommendations from our staff on how to mitigate the damage that was done and he'd like to begin to address those now.

Mr. Tralies said outlined in their January 26, 2007 letter, they tried to figure out the best way to mitigate the additional tree disturbance on the site. The way they did this was to take the approved grading plan and the as built plan as they were submitted, compare the two limits of disturbance and figure out a square footage area of additional disturbance. They found the as built plans showed approximately 14,000 square feet of additional disturbance from the approved grading plan. From there, Chris Garges and Mr. Tralies went out to the site to perform a tree count. In other townships, where trees are removed is they'll go out to the site. If it's a large site with a lot of woodlands, they'll set up tree count sample areas. That's what they did on this area. They flagged off a 100 x 100 foot area in front of the lot and 50 x 50 foot area in the rear of the lot. They counted and measured all the trees there. They can't figure out exactly how many trees and what size the trees were that were removed, so they try to figure out what's on the site and use what's there to come to an estimate of what was removed. They did the tree count, which is on page 3 of their letter. They came up with estimates that they think may have been removed from the site. For each 1,000 square feet of disturbance, approximately 5.4 trees containing approximately 57 caliper inches per tree would have been removed on average. That is a very big tree. They tried to figure out the best way to mitigate this. They could have said we should try to make them replant on an inch for inch or tree for tree basis for what was removed. They took a step back and tried to say what's going to be the best thing for the

land here. The best way to mitigate what was done for the actual site. They went back to their 14,000 square feet of extra disturbance that they determined. They looked their zoning ordinance definition of woodlands which is an area that contains an average of one or more trees measuring six inches in caliper or greater per 1,000 square feet. All associated layers of growth including, but not limited to the canopy understory and floor should be considered as part of the woodland and shall be so protected by the woodland protection rate. Based on that definition, we would recommend that six caliper inches worth of trees or three 2" trees be planted per 1,000 square feet that were removed in excess of what was originally permitted. To go a step further, the definition follows to say, including, but not limited to the canopy understory and floor. In order to actually reestablish woodland versus just planting trees, we're also asking that understory trees and shrubs be planted as well at a rate of one understory tree and three shrubs per 1,000 square feet of disturbance. Those totals, times that, approximate 14,000 square feet of additional disturbance. They come up with a total of forty four 2" caliper shade trees, fifteen understory trees and 44 shrubs we feel to be planted on the site for mitigation to what was removed in excess of what was urgently approved.

Mr. Rogora said does the 14,000 square feet take into consideration the area that was required to be removed by the DOT? Mrs. Yerger said on page 2, it says "no disturbance within the Applebutter Road right-of-way has been considered." Mr. Tralies said he is assuming DOT would have not asked you to remove trees that were actually on your property, but only what was in the right-of-way. They did all of their calculations based on the lot area. They didn't use anything that was in the ultimate right-of-way or any area in there legal right-of-way. They never saw any documentation from DOT about removing trees on the plans, so they went by the site areas. Mr. Patullo said they had to take a few extra trees down for the septic. Attorney Treadwell said when your engineer prepared the grading plan, they didn't take into account the area for the septic system? Mr. Patullo said he's sure they did. Attorney Treadwell said then how could more trees been removed than were necessary on the grading plan? Mr. Patullo said when they do the layout for a septic system, there's trees in there. There's no trees depicted there. The trees in that area must come down. Attorney Treadwell said why didn't the grading plan show those trees what were supposed to come down? Mr. Patullo said they don't show because Jeff or Janice will come out to the site and say take that tree down, take that tree down, and so forth. PPL came out and flagged a whole bunch of trees. His next thing was to call Chris to take a look at it. Mr. Maxfield said it looks like it was proposed over 30,000 square feet of disturbance for your original septic system on the grading plan, but it ended up on being 15,000 additional square feet somehow for just the septic system. Attorney Treadwell said every time you change the approved plan or whatever you are going to do in violation of one of our ordinances, you need to come to the Township. Mr. Tralies said this isn't just a few trees around the edge of a septic system. If you compare the two plans and if you look at the original approved grading plan, it does show there are trees around the septic area. Looking at the tree line, it comes all along down to the edge of the road. It's not like there's a bubble around that area or no trees shown there, they are there. When you look at the as built plan, there is significant disturbance around the septic area, not just a few trees here and there. Mr. Patullo said they were asked to remove those trees. Mr. Tralies said he understands they may have been asked that, but as Attorney Treadwell has said, because you were asked by some outside agency, doesn't mean you can just ignore the zoning ordinance.

Mr. Maxfield said we did not consider the right-of-way where probably the DOT trees were removed. That was not part of the formula. Whatever the formula is, it's legitimate. Mr. Tralies said they did not use any area within the right-of-way for any calculation. They only used the area of the lot itself. Attorney Treadwell said Mr. Tralies did not use that in

his calculation. The area that it occurred in does not enter into our formula. Mr. Maxfield said so far the formula is legitimate for your piece of property regardless of what happened on the DOT tree removal. Mr. Horiszny said if the DOT said remove more trees than is in their right-of-way, they should let us know that. Mr. Kern said that was the mitigation by Boucher & James, what's the next step?

Mr. Birdsall said they have some drainage comments in a letter dated February 1, 2007. They are relatively minor, but what it is, is storm water mitigation for the additional runoff. They believe that should be recharged back into the ground. There was an allowance in the original subdivision for a certain number of square foot of impervious cover. They exceeded that and they have to address it. That's HEA's recommendation. There would be some additional engineering and improvement work that needs to be done. Mr. Maxfield said since we just presented you with this information for the first time, they need to review it and understand the implications and cost of it, he'd like to ask the applicant to continue their ZHB application for the variances and address the issues that they've presented by next Council meeting and grant continuance until the next time. Attorney Treadwell said look at documents we've given you tonight and the suggestions that were made by the engineer and the planner and you need to determine, with your own consultants, how you feel about those suggestions and whether you are willing to comply with them or not. You don't need to necessarily come back to Council if the property owners agree to comply with the suggestions. You could send a letter saying you agree to comply and you wouldn't need to reappear. Mr. Maxfield said what the Council has been presented by our staff and consultants is a package that we agree with. We're not into splicing and dicing it up into two different sections. It's either a whole package or no package. Mr. Rogora said they will review it. Mr. Maxfield said right now our need to grant us a continuance of your ZHB application. Mr. Rogora said absolutely.

Mr. Kern said had you come before staff when the changes were made, these storm water improvements would have been addressed at that time instead of having to be addressed right now.

Mr. Kern said the additional costs that were incurred by the Township by our planner having to go out and do the site plan cost the taxpayers money because you failed to do this properly. That cost was \$2,000.00, not to mention the cost to our staff to go out and assist HEA in doing their review. That's not even factored into this.

**B. LI FANG – FLINT HILL ROAD – LOT LINE ADJUSTMENT**

Mr. Kern said the applicant is proposing to adjust the lot boundaries for three parcels to provide better access and enlarge undersized lots.

Mr. Andy Woods was present representing the Fang's. The Fang's were also present. Mr. Woods said they are asking for a number of variances. This is purely a lot line adjustment to try to mitigate some nonconformities. There are three lots. One lot at the corner of Flint Hill Road is being expanded. The Fang's are giving them approximately 3,000 square feet. They are also swapping some land with a neighbor, which is almost an equal swap. It ends up their driveway within an easement and they are mitigating that. There are no proposed improvements for any of this. It's strictly a lot line adjustment.

Mr. Maxfield asked Mr. Birdsall if the lot line adjustment they are proposing meets our criteria for what a lot line adjustment is? Mr. Birdsall said no, it doesn't. It doesn't qualify for a Form B or minor B subdivision because there are still nonconformities and actually they are creating a little bit more of a nonconformity on one issue. Overall, it's much better, so the philosophy of our minor

subdivision ordinance is met, but the technicality is not met. That's one of the waivers they are asking for – to be allowed to be treated as a minor B. The staff is supporting some of the waivers as long as the right-of-way easements are shown for the public road in a proper fashion. Mrs. deLeon said we don't need to show the existing features as they were asking for a waiver from that. Mr. Birdsall said let's go through the lists starting with the Boucher & James.

Mr. Tralies said we have a few issues. Their main issue is the right-of-way. There is a possibility that one of the nonconformities could get worse in the future. It's been stated that it's not believed that the township wants dedication of the full width of the right-of-way at this point, so the applicant on the plan, is measuring all of the lot areas from the existing right-of-way versus the shown future right-of-way. The way they would like to see everything done is show all the lot areas measured from the future right-of-way because the reshaping of the Tegyi lot. As it is right now, if this plan is approved as it is, and the lot is reshaped, and then in 10 or 15 years, that right-of-way gets dedicated out to its full width, the Tegyi lot as it's being proposed to be reshaped will actually be smaller than it exists right now. They are proposing to bring the lot in and make it wider putting more of the lot area in the ultimate right-of-way. That's one issue. They understand they are here to clean some things up right now, but if this right-of-way gets dedicated in the future, then it really hasn't gotten them anywhere on that issue of minimum lot size. Mr. Maxfield asked if they had an estimate as to how small the final lot would end up after the future right-of-way taking? Mr. Tralies said he doesn't have that figure in the letter specifically. Mr. Birdsall said all together there would be a lot width along the highway of about 181 feet and it would be another 14-1/2 feet of dedication, so it would be times 14-1/2 feet or 2,600 square feet which is about 6% of an acre and they are proposing to basically give back to the Fangs 9,000 square feet in the back. They are picking up 6,000 square feet on the side, so the smaller lot is not even breaking even right now. If you take away another 2,000 square feet, they are breaking even, even less. Mr. Tralies said their calculations on the plan state Tegyi property would be growing by approximately eight square feet, so for us to measure that small of an area, they didn't feel appropriate to argue either way on eight square feet. If you say right now it's going to be plus eight square feet, but then subtract out the area that they'll lose if the right-of-way expands, then their lot area will be minus that right-of-way area plus their extra eight square feet. Mr. Birdsall said they have a way they can mitigate that by adding the presumed right-of-way to the Tegyi lot and giving Mr. Tegyi a little bit more than what they are proposing right now. It wouldn't be that much more and they could slide that lot line back or back the other way a little bit. A lot of the importance of all of this goes to supporting setbacks for future wells and drain fields. We are talking about a minor issue, but for the future owners of the Tegyi property, it could be a pretty major issue if they couldn't find a place to replace their septic system.

Mr. Woods said there is already a house on that lot and a septic and well in there. From what he understands from Mr. Frederickson, these owners aren't going to dedicate any of this right-of-way to the township at this point. Is the township aware of any proposed right-of-way takes in the near future? Attorney Treadwell said the answer is that the ordinance requires you to show it on the plans. Whether the township is ready to take it or not it needs to be shown on the plan and included on the calculations, which it is not at the moment.

Mr. Tralies said the next issue is under D which has to do with maximum coverage. The plans do not indicate the existing proposed amounts of impervious coverage. The plans should be reviewed to indicate existing and proposed impervious coverage for each lot in order to demonstrate compliance with these requirements. Mr. Frederickson issued a letter previously that just stated they would not like to have to do this. It's a requirement of the zoning ordinance, so they would have to get a variance. He would not recommend granting that variance. The township has storm water problems that's well documented in other areas. He would recommend variances for impervious surface calculations. We could get into a situation where one lot changes shape that might already be at its maximum impervious surface that is allowed, then to change to shape into it

and make it a nonconformity. Then by changing the shape of the lot, you might add more area to another lot that then gives it more permitted impervious surfaces. Without documenting these things, to see how the changes in the lot shapes and areas affect this, we could be worsening the situation. All that said, these lots may not even be close to the maximum permitted. They might be fine, but we don't know that because they haven't provided calculations.

Mr. Woods said the lot to the south is expanded. It's getting larger, so the impervious coverage is going to go down. There is nothing proposed in impervious cover for this project. The second lot is almost equal in size. It's a swapping, so as far as the impervious cover goes, it's going to be nearly equal because there's eight square feet that's being exchanged between the lots. To go through the calculations, your argument falls down about the nonconforming lots. The one lot gets larger and this lot that is close to the road is almost equal in size. The third lot has a large area to it. There's no proposed impervious cover. Mr. Tralies said they would still like to see the calculations. The one lot is getting smaller, and that hasn't even addressed yet, so they can't just assume that this lot is stating the same. Some of the lots are possibly changing sizes, but they aren't sure of that yet. Attorney Treadwell said isn't it a simple answer that the zoning ordinance requires site capacity calculations, so you either do them or you ask for a variance. Mr. Woods said okay.

Mr. Tralies said under No.3, you don't see environmental natural resource protection or site capacity calculations as required by zoning. Mrs. deLeon said if you ask for a variance, don't you still have to do them to show them the difference? Attorney Treadwell said he would guess, and he's not on the ZHB, but he'd think the ZHB would want to see what the difference was before they granted a variance or not, but again, he's not on the ZHB.

Mr. Birdsall said in their letter, they don't have an objection to granting the waiver of the minor type B as long as they are moving ahead with everything else. They would want to see, if you go to No. 3, since they are not doing anything outside of the property, he thinks that's a reasonable waiver in this case. No. 4 is just identifying the owners across the street that they would like to see done for a matter of recordkeeping. This surveyor certification, No. 5, is going to have to be done. The conservation easement needs to be shown on the plan and the applicant has asked for a waiver. They think it should not be granted. The conservation easement is very important. It was shown on a supporting covenant that ran with the land, and they think therefore, it should be reflected on this plan. It should be easy to put on there because the agreement pretty well spelled out where the conservation easement was. No. 7, since there is no change being made, he could see granting a waiver on locating the sewage disposal area by metes and bounds. No. 8 needs to be done in order to be recorded. No. 9 was talked about already. No. 10 was talked about already. No. 11 utility and drainage easements, this is probably the biggest new item and that is the drainage easements. There is a rather large drainage channel that comes through the Tegyi property and the Fang property and they believe the ordinances require the drainage easements be shown. That would probably be the most costly thing for them to comply with because it would need to be identified and probably has not been surveyed as to its location up to this point in time. We would prefer to see that on there, but he'd rather leave that in the discretion to Council because that would be quite a bit of additional calculation work for a plan that is not proposing any new development. Possibly it could be covered by a note indicating if there was any development in this area, it would have to be defined. Mr. Kern said he'd prefer to see the note on that one which would suffice.

Attorney Treadwell said you have until May 14 to make a decision on this project, so it sounds to him like what he's heard tonight is they should go back and look at revising the plans and bring it back before Council. Mr. Woods said a plan that doesn't have probably any proposed development, which of these waivers are you going to look to support and not support? The ones with the zoning ordinance, it's not up to Council to say yes or no. Attorney Treadwell said it's up to the ZHB to choose to apply for a variance, otherwise you could just do what Mr. Tralies letter

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says. Mr. Birdsall said No. 1 could be waived – his recommendation to Council would be that they could treat this as a type B minor if these other issues are taken care of. He supports the waiver. No. 2 and 3 he supports. In order not to violate the direction of Council and the fact that these are ordinances instead of him saying he supports or he doesn't support, he would rather say he has no major objection to – No. 1, 3, 7, 11 and 12.

Mr. Kern opened it up to the audience. No one raised their hand.

**C. DRAVITZ MAJOR SUBDIVISION – 2845 COUNTY LINE ROAD – PRELIMINARY PLAN APPROVAL**

Mr. Kern said the applicant is proposing to create a four-lot residential subdivision on County Line Road.

STAFF RECOMEMNDATION  
FOR DRAVITZ MAJOR SUBDIVISION  
2845 COUNTY LINE ROAD – TAX MAP PARCEL Q8-9-5

The Lower Saucon Township staff recommends that the Township Council approve the Dravitz Major Preliminary Subdivision Plan, prepared by Keystone Consulting Engineers, Inc., consisting of Sheets 1 of 6 through 6 of 6 dated May 9, 2006, last revised January 26, 2007. Subject however, to the following conditions:

1. The applicant shall address the review comments contained in the letter dated February 1, 2007, from HEA to the satisfaction of the Township Council.
2. The applicant shall address the review comments contained in the letter dated February 1, 2007 from Boucher & James Inc. to the satisfaction of the township council.
3. The applicant shall provide four (4) complete sets of preliminary plans with original engineering signatures and seals. The applicant shall also provide two CDs of all plans in an AutoCAD format (jpeg-ROM).
4. The applicant shall pay any outstanding escrow balance due to the township in the review of the plans and the preparation of legal documents.
5. The applicant shall satisfy all these conditions within one year of the date of the conditional approval unless an extension is granted to the township council.

It is also recommended that Township Council approve waivers from the requirements of the following Subdivision and Land Development Ordinance (SALDO) Sections:

1. Section 145.33.C(1) and (2) which require existing featured within 500 feet of the site be shown on the Plan.
2. Section 145-45.B(4)©(4) so as to permit a cartway width of 24 feet in lieu of the required 28 feet.

It is also recommended that Township Council approve a waiver from the requirement of the following Sewer Ordinance (Chapter 130) Section.

1. Section 130-14K which requires lots to be a minimum three (3) acres in size to use elevated sand mounds for sewage disposal areas, to allow lots with a minimum tow (2) acres to use elevated sand mounds.

We hereby represent and certify that we are the owners and applicants of the plan described herein. We have read the above list of conditions for the approval being considered for this application and we hereby accept and approve these conditions for granting the approval in accordance with Article V of the PA Municipalities Planning Code.

Mr. Kevin Horvath, Keystone Consulting Engineers representing Smith Bros. development was present. Dan & Terry Smith were also present. They have a draft resolution for the project. It's a four lot major subdivision. It was designed in accordance with the cluster ordinance requirements so there was a permitted reduction in lot frontage in exchange for dedication of open space. Those areas would be to the right hand side of the plan and a chunk that sticks out on the left hand side of the plan as well. Everything is in accordance with the cluster ordinance. There are several waivers they are requesting tonight which have been discussed with exception of one. They have been recommended for approval by Council. The waivers include showing existing features within 500 feet of their site. The reason they had asked to receive a waiver from this was due to the size of the property and the extent of the survey required. It would be a significant effort and cost for this, so instead, they've shown within 200 to 400 feet of the bounds of the property and also showed any features significant that would be impacted or potentially have an impact on the proposed development such as nearby wells or nearby septic systems, drainage channels, anything pertinent to the design of the subdivision. The second was a reduction in the width of the cart way from 28 to 24 feet. They've discussed this before, as it was recommended by the EAC and as the plan is shown now, it has a 24 foot cart way. The last waiver request is something that has recently come to their attention. It's the result of a disconnect between two different sections of the township ordinance. The requirement for a three acre minimum lot size, when proposing sand mound or elevated septic systems was eliminated from your SALDO, but it still remains in the sanitary sewer ordinance. For technicality, they required to request a waiver from this one. Section 130-14K requires a minimum of three acre lot size for elevated sand mounds. They are proposing two acre minimum lot size which is in accordance with all the other sections of the cluster ordinance. Those are the three waivers. Some other bookkeeping items have been laid out for them in the draft resolution. He'd like to touch on the Boucher & James and HEA letter which include a few additional specific requirements. With the HEA, No. 2 they have requested feedback from the Fire Chief. They haven't received anything yet. Chris Garges did not hear anything yet. No. 2 addresses the waivers that he's already gone over. No. 6 points out that the subdivision shows common lot line easement, as required by the SALDO, ten feet on either side of proposed lot lines. The letter points out that ten feet of the twenty feet is shown within the required open space. It will come down to how this open space will be proposed to be owned and maintained. The NPDES permit, they've received it and the letter from the local conservation district. They have had the plan shipped up to DEP for processing and final issuance of an NPDES permit. They're still waiting for that. There's been another section of the zoning ordinance that requires 28 feet cart way, but you have to technically okay a portion of the zoning ordinance which says "or as approved by the Council". Attorney Treadwell said if that's what is shown on the plan as 24 feet and we approved the plan, then that's okay. Mr. Horvath said No. 18 they are willing to comply with. No. 19 involves the dedication of open space. There is no useable land on the project site that would conform to the requirements for useable recreation or open space and the applicant request to pay fees in lieu of dedication of land. Through approval, you would okay that. Attorney Treadwell said that's fine. Do we have a calculation on that? Mr. Birdsall said \$12,400. Mr. Horvath said he'd like to see if that has to be adjusted as SALDO has an exemption as the property already has an existing house on it, and the zoning calls for an exemption if there is an existing house. It's a four lot development, so he thinks that should be for three additional houses on that calculation. Attorney Treadwell said when it comes down and you build a new one, then it goes to four. Mr. Horvath said the exemption says that any lot or lots that have an existing dwelling unit at the time of application shall be exempt from the contribution requirements. Attorney Treadwell said the question is, do you want to give us recreation land that is suitable for active recreation or are you requesting that you pay a fee in lieu of that we've already calculated. Mr. Horvath said he wanted a correction in the calculations. Attorney Treadwell said he understands that, do you understand what his question is. Mr. Horvath said is that the position of the Council? Attorney Treadwell said that's the position of the township is that the number has been calculated and you can either give us the active recreation land or you can pay the recreation fee. Mr. Birdsall said it

sounds like it was a mistake. Attorney Treadwell said if it's a mistake, it's a mistake. Mr. Maxfield said they will correct the language. Mr. Birdsall would like to have a chance to look at it. Don't rely on this calculation for tonight.

Mr. Horvath said the draft resolution also refers to the Boucher & James letter which they are willing to comply with. One is a general comment, and it mentions they should receive feedback from the Solicitor regarding the maintenance agreement for the proposed infiltration facilities. They sent that quite recently to Attorney Treadwell's office for review and will await comments on that. One large item pertains to the open space that they have delineated on the plans. Per the cluster ordinance, the open space has to be offered for dedication to the township initially. Given the fact that it's not useful for recreation in terms of open playing fields, due to the steep slopes, the applicant would request that you consider the proposal that they actually incorporate these open space areas into lot 3 and lot 4 protecting that area with a deed restriction that is never to be developed or clear cut or anything like that, but preserved in its natural state, as is. The second and third open space areas fall behind the two existing lots to the west of the subdivision. They are proposing that as these open space areas are delineated they are conveyed to those neighboring property owners because it fits in with their property. They have expressed interest in taking ownership of these parcels. They would also be proposed for preservation by means of deed restriction or covenants on the land acceptable to Council for preservation purposes. The unusual part is they are being conveyed outside of the subdivision to other private owners which really isn't specially described in your ordinance. We need some feedback on that. Mrs. Yerger said what's the total acreage? Mr. Horvath said the two parcels on the west that they are proposing to convey to the neighbors is 1.4 acres and the long sliver to the west of lot 1 is .8 acres, and the parcel on the right hand side is 10.2 acres and would be broken down to 7 and 3 or 8 and 2 and divvied up to lots 3 and 4 as they fit in with the lot geometry. They would adjust the lot line plan. Mr. Maxfield said that kind of adds a little problem to it as it no longer becomes a cluster as now you have enormous lots. You're not going to reduce lot size anymore because you have big lots. Mr. Horvath said we are not necessarily required to reduce the lot sizes. We are permitted to reduce the lot size and the lot frontage in exchange for preservation of a certainly calculated amount of open space. They are not increasing the buildable areas beyond what's permitted on the site within the confines of the cluster ordinance. They are not really doing this in an effort to gain additional developability of the land. It's more that this is a nice way to use this open space and preserve it. Mr. Maxfield said is your intention to dissolve and move around the lot lines you have now or would you be more agreeable to keeping the lot lines that are there and cutting the open space into two sections and just giving ownership of it but keeping it as a separate lot. That would insure its preservation more than if it was attached to a lot - if the lot line was dissolved. Mr. Horvath said if you are agreeable to that, the site capacity limits us to four lots. Mr. Birdsall said he would be concerned about creating a lot that's landlocked and then letting it go and then it might fall into a sheriff's sale or something like that unless you could bind it up with a third party. Then they would be more protected. Mr. Maxfield said it looks like the one lot has a passage way to road frontage, but the other one wouldn't. We also have that same problem with the two lots in the back. Mr. Birdsall said the way they are proposing it, they would be merged to the lots in the front. Mr. Horvath said the way Wildlands Conservancy works is they just restrict it by added, is that correct? Mrs. Yerger said they put what they call a conservation easement on it. Most times that conservation easement allows for things such as monitoring once a year, so they actually own the development rights on those particular parcels of property and it entitles them with certain covenants that run with the land with that organization such as the ability to monitor it and maybe advise stewardship of the property so that it does stay in a natural state. It's one thing not to develop a lot, it's another thing to keep the land by reason which you are preserving the land intact. It's a two prong thing. You have this whole subdivision issue which you've addressed, but the second part is again preserving the environmental quality of the land. That's why a conservation easement usually is preferable and is signed with an organization like Wildlands. The ownership is not an issue. It prohibits subdivision and it also provides for stewardship of the land. Mr. Horvath said if that were the case,

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the landlocked parcels could be development rights given up and conveyed to Wildlands. Mrs. Yerger said yes. Mr. Horvath said they are willing to come up with the preservation that would meet the intent of the township or what have you, but they'd like to get this settled and say this goes here and this goes there. Mrs. Yerger said one of the goals is preservation of the open space for perpetuity, so the Township and whatever conservation entity you would work with would work in tandem and it's sort of a fail safe system so that if Council would ever decide that open space isn't an issue, some future Council, the intent is that the conservation organization would always value it and defend that easement. Mr. Horvath asked for some guidance? Mr. Maxfield said this is preliminary plan. We would want to keep the lots as close to these shapes as possible. Can we explore further how we can treat this open space before final plan approval knowing and giving the assurance that we'd like to keep this configuration and determine its status as we go? Mr. Horvath said the concern is in moving forward, there is the potential then that those lots would need to be split and conveyed to those two lots and a potential buyer would have to deal with that. Mr. Maxfield said we're aiming to not do that and not split it up. Mr. Terry Smith said does that mean you would take the open space? Mr. Maxfield said that's one possibility he'd like to explore because he always considers that as there is no maintenance on a piece of property, it's no deal for the township to own it. We need to look at it. Mrs. Yerger said we need to explore and have the Open Space Subcommittee that sits on the EAC see if there's any possibility for contiguous with future development and some dedication of open space. Mr. Maxfield asked if the EAC could look at the property. Mr. Terry Smith said they are more than welcome to come, he'll take them on a tour. Mr. Maxfield said he doesn't care with the two smaller lots being conveyed to the other owners as long as they are deed restricted. Mrs. Yerger said she can't see why the two smaller sections can't be deed restricted. She doesn't have a problem with that. It's the larger parcel. Mrs. Yerger said one of the ways we could do it is the easements could be held by the ownership for now and if the township wishes to pursue having a joint partner in the process then it would be in the township's frame to move forward with that. Mr. Maxfield said he wanted to look at something like that to give us some flexibility. Mr. Horvath said if Council has language already that works, that would be fine. Attorney Treadwell said for the two smaller lots, if they go to the neighboring property owners, there's a note on the plan and a deed restriction/covenant in the deed that gets conveyed to those property owners saying it won't ever be developed. Mrs. deLeon said she's not comfortable because people can change that and not always value the word covenant and that's why the third party thing is a lot better.

Attorney Treadwell said you have until May 13. To move it forward, you can make a motion for preliminary approval tonight based on the memo prepared by Hanover subject to reviewing the open space issues or you can wait. Mr. Maxfield said he would like to move it along and basically restate what Linc just said and make a recommendation for approval for the preliminary subject to our disposition of the open space, a decision about that sometime in the very near future and he would also like to explore what Mrs. Yerger said about the township taking it and holding the easements for now and transferring it sometime in the future. Mrs. Yerger said you just have to add, you don't even have to transfer. Attorney Treadwell said if that's the way the township wants to go, we'd own the property and give an easement to one of the conservancies to guarantee that it stays that way. Mrs. deLeon said if we consider preliminary approval based on the plan in front of us, it's showing the little parcels. Mr. Birdsall said it's preliminary right now, but it's telling us what they will do in the future.

Mrs. Yerger said have you considered conveying all of it to one of the parcels? It's a little oddly shaped. It might be a little cleaner. It would be restricted by conservation agreement, but it would be owned by one of the owners? They could still go through Wildlands, they would be co-holders of the easement, but they wouldn't be owning the property and we would be co-holder with them on the property. Mr. Smith said that would be fine. She would envision the lot lines staying the same and they could even own it in two parcels. Mr. Maxfield said one thing we are guaranteed is that the lot lines will stay as they are.

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**MOTION BY:** Mr. Maxfield said he would like to move it along and basically restate what Linc just said and make a recommendation for approval for the preliminary subject to our disposition of the open space, a decision about that sometime in the very near future and he would also like to explore what Mrs. Yerger said about the township taking it and holding the easements for now and transferring it sometime in the future. Mr. Maxfield said it would be for preliminary approval subject to further discussion on the disposition of the open space.

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

**ROLL CALL:**

Mr. Birdsall asked if the applicant has signed the conditions and can that be added on as condition No. 6, that the lot lines would stay as they are. Attorney Treadwell said No. 6 would read the lot lines shown on the plan dated (whatever the date is), last revised (whatever the last revision date is) shall remain the same for the final plan approval. The plan shows those two will be merged in the future.

**MOTION BY:** Mr. Maxfield amended his motion and said he would like to move it along and basically restate what Linc just said and make a recommendation for approval for the preliminary subject to our disposition of the open space, a decision about that sometime in the very near future and he would also like to explore what Mrs. Yerger said about the township taking it and holding the easements for now and transferring it sometime in the future. Mr. Maxfield said it would be for preliminary approval subject to further discussion on the disposition of the open space and include No. 6, with changes.

**SECOND BY:** Mr. Horiszny amended his second

Mr. Kern asked if anyone in the audience had any questions or comments? Ted Beardsley said he thinks there is a difference between conservation and a deed restriction. One of the main differences is that a deed restriction is something that someone can go to court later on and say this is creating a hardship for me, and I only did it so I could buy the house and I want to be able to sell this piece of property or develop it. I also don't think a deed restriction normally has any conservation values. With a deed restriction, you can't do all those things that a conservation easement could do and keep the people from cutting trees or polluting the water or creating environmental hazards. You are better off staying away from the deed restriction and sticking with the conservation easement. That's something that someone ran into knowing they were never going to develop that property and knowing they were the stewards of the land and they had to keep it up. Mrs. deLeon said she's always nervous about protecting the environment and what we want to do, so we're not approving that, it's just a concept? Attorney Treadwell said correct.

**ROLL CALL:** 5-0

**D. FILLER MAJOR – SKIBO ROAD – PRELIMINARY PLAN APPROVAL**

Mr. Kern said the applicant is proposing a two-lot residential subdivision.

STAFF RECOMEMNDATION  
FOR MARIE FILLER, ET AL, 1839 SKIBO ROAD – TAX MAP PARCEL Q7-12-16  
PRELIMINARY SUBDIVISION PLAN APPROVAL FOR  
FEBRUARY 7, 2007 LOWER SAUCON TOWNSHIP COUNCIL MEETING

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The Lower Saucon Township staff recommends that the Township Council approve the Marie Filler, et al Major Preliminary Subdivision Plan, prepared by Schoor DePalma, consisting of Sheets 1 of 2 through 2 of 2 dated December 22, 2005, last revised December 21, 2006. Subject however, to the following conditions:

1. The applicant shall address the review comments contained in the letter dated January 30, 2007, from HEA to the satisfaction of the Township Council.
2. The applicant shall address the review comments contained in the letter dated January 31, 2007 from Boucher & James Inc. to the satisfaction of the township council.
3. The applicant shall provide four (4) complete sets of preliminary plans with original engineering signatures and seals. The applicant shall also provide two CDs of all plans in an AutoCAD format (jpeg-ROM).
4. The applicant shall pay any outstanding escrow balance due to the township in the review of the plans and the preparation of legal documents.
5. The applicant shall satisfy all these conditions within one year of the date of the conditional approval unless an extension is granted to the township council.

It is also recommended that Township Council approve waivers from the requirements of the following Subdivision and Land Development Ordinance (SALDO) Sections:

1. Section 145.33.C(1) and (2) which require existing featured within 500 feet of the site be shown on the Plan.
2. Section 145-45.B(2)so as to permit so as to not require the planting screen and elevated buffer berm along Lot 1. No requirements of this section are waived for lot 2, and the additional 20 foot front year setback is not waived for lot 1.

It is also recommended that Township Council approve deferrals from the requirement of the following subdivision and land development ordinance (SALDO) sections until the future subdivision of Lot 2.

1. Section 145-41B(3) which requires that existing roads adjacent to the property being developed be improved to the standards of SALDO, to allow any improvements to Skibo and Meadows Road (including realignment of their intersection) to be coordinated with future road and storm water improvements of Lot 2.
2. Section 145-43B(2) which requires lot abutting Collection Streets to construct a berm and planting screen with an Easement prohibiting access to the street, to allow the construction along the Lot 2 frontage to be coordinated with future road and storm water improvements of lot 2.
3. Section 145-52(b) which requires installation of street trees, to allow the installation along the frontage of both the lot 1 and lot 2 to be coordinated wit future and storm water improvements of lot 2.

We hereby represent and certify that we are the owners and applicants of the plan described herein. We have read the above list of conditions for the approval being considered for this application and we hereby accept and approve these conditions for granting the approval in accordance with Article V of the PA Municipalities Planning Code.

Attorney Raffaelli and Jennifer Oehler were present. Jennifer is the Approvals Manager for the project. Nina Seidel used to be the Approvals Manager and Jennifer is now taking over this project and will provide the township with her contact information. Attorney Raffaelli said they are requesting preliminary plan approval. The Filler tract is located at 1839 Skibo Road. The entire Filler tract is part of another pending application with the township which is known as the Chaffier major subdivision that is currently being revised and being reviewed. They received the staff

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recommendation and have the review letters. Attorney Treadwell said you could tell us that you agree with everything that is in them.

Attorney Raffaelli said from an engineering standpoint, they agree with them. She would like to discuss them.

Mr. Kern said we'll start with the January 30 HEA letter. Attorney Raffaelli can accept some conditions, but what the staff recommendation asks is that she sign and accept all the conditions. She doesn't have the authority on behalf of Heritage to accept preliminary plan conditions. It shouldn't stop Council from making the motion for whatever preliminary plan approval you do or do not choose to make. Attorney Treadwell said Council's standard operating procedure is if they grant preliminary approval, someone needs to sign tonight and say we agree. If you are stating to Council that you don't have the authority to do that, if there are major issues you want to discuss with Council that aren't engineering issues or planning issues that could be resolved at that level, let's talk about them. Attorney Raffaelli said she doesn't think there are any major issues. She would like to go through it. Mr. Birdsall said we can discuss everything and see where she stands on things and ask her to sign it and send it in before the next meeting, the adjusted one. The timeframe is May 9, 2007.

Attorney Raffaelli said the January 30, 2007 letter from HEA – the first comment is just a general comment what the plan is about where they are going to subdivide the 22.22 acres into two lots. Lot 1 will be retained by the Filler's which is almost 3 acres. Lot 2 is the remaining lands which are part of the Chaffier major subdivision which is pending under a separate application. Right-of-way dedication of Lot 1 is also proposed. For lot 1, right now, it has individual on lot water and sewer, however, they received forty of the fifty one EDU's that they are requesting and the Filler's will be hooked up to public water. The second comment of your subdivision land development ordinance is they are requesting a couple of waivers. The first one is from Section 145-33.C(1) and (2) which require the Plan show all existing features and contours within 500 feet of the property. What they had proposed was for this subdivision of just lot 1 and 2 that those existing features within 500 feet were not necessary for the proposed plan as it is right now. They are not proposing any additional buildings or access points on the Lot 1. All those other items will be with just Lot 2 under the separate Chaffier major subdivision. They also requested a waiver for Lot 1 from Section 145-33.B(2) which requires an additional buffer yard. They requested a deferral for Lot 2. Again, most of what you are going to be seeing in these review letters is they are requesting that Lot 2, the requirements under those review letters will be deferred until that time. They are agreeable to working out additional notes on the plans if necessary in conjunction with your Solicitor. The next comment would be No. 3, Section 145-33.E(9). They offered a sketch plan layout for the additional properties. Mr. Birdsall's office offers comments on that and the road layout under Lot 2. No. 4 is a will comply. No. 5 is Section 145-33.A – the plan proposes deferral of road widening, curbing, sidewalk and street trees along the frontage of Lot 1. They are requesting a deferral, not a waiver. Mr. Birdsall said on that issue, it's mentioned here Lot No. 1 will be impacted so greatly in the future by Lot 2 and you're doing a good job putting notes on the plan, they really are recommending that when we get to the final plan for the submission you have here, that a notice or an easement or something be actually recorded with Lot 1 so that anybody buying Lot 1 realizes somebody may come in and take those trees down. They may come in and put a lateral in their front yard. There's a lot of things going on that future owners should be aware of. Attorney Raffaelli said she agrees with him, part of what she ends doing a lot is going back and get grading easements and draft easements after the fact. They will comply with that. They will put any construction or grading easements on the plan for Lot 1. No. 6 is a will comply. No. 8, Section 145-43.B(2) access restrictions and planting screens along the collector road frontages of Lot 1 and Lot 2 must be noted on the plan as noted in Comment 1, the developer is requesting a waiver for Lot 1 and a deferral for Lot 2. This plan must clearly indicate that it does not allow a house to be developed on Lot 2 which has direct access to Meadow's Road. She said their engineer

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comment on this. They do want a deferral for Lot 2 and she understands how you don't want to have one house if something happened to the Chaffier plan to have direct access to Meadow's Road. From what their engineer was saying in his comment letter was "Lot 2 cannot be denied access to Meadow's Road as it would create an inaccessible lot". She doesn't have the overall Chaffier plan here this evening. What she would recommend is that Council consider to address their engineer's concern that we can put a note on this plan that if we need to say that access for Lot 2 either has to be approved by your engineer or is decided in conjunction with the Chaffier major subdivision. She doesn't want anything conflicting on Lot 2 saying no direct access to Meadows Road when the Chaffier major subdivision plan might have a conforming access based upon the realignment of the road. Mr. Birdsall said that's fine. Attorney Raffaelli said No. 9, Section 145-45.B(9) requirements for right-of-way dedication along the entire frontage of the property should be determined. The plan proposes to dedicate right-of way in front of Lot 1, this should more clearly indicate that an easement is being dedicated. That's fine. General note 7 states that required right-of-way along the frontage of Lot 2 shall be dedicated at the time Lot 2 is developed. They are in agreement with the comments in No. 9. No. 10 is Section 145-51 general note 8 proposes to defer the open space and recreation requirements until the development of Lot 2. That is consistent with their request of the road improvements and everything else that those items be determined under the application for the Chaffier major.

Attorney Raffaelli said the Boucher & James letter, it's just a review of the open space comment, recreation which was just discussed with Hanover.

**MOTION BY:** Mrs. deLeon moved for approval of the staff recommendations for Preliminary Plan approval draft motion dated February 7, 2007 subject to the applicant signing it and bringing it back before our next meeting.

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

**ROLL CALL:** 5-0

**E. ESTATES AT SAUCON WOODS – SECURITY REDUCTION**

Mr. Kern said the developer has requested a reduction of security for work completed at this subdivision. HEA has done an inspection and they recommend a reduction in the amount of \$106,915.80 with \$88,750.72 to be retained as security.

**MOTION BY:** Mr. Horiszny moved for approval per HEA's recommendations.

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

**ROLL CALL:** 5-0

**V. TOWNSHIP BUSINESS ITEMS**

**A. MEADOWS ROAD BRIDGE PLANNING OPTIONS**

Mr. Kern said the staff would like to provide Council with planning options regarding the Meadows Road Bridge.

Mr. Birdsall said the county is expressing interest in staying on track with whatever schedule they have for redoing the bridge. They want to get their engineer started on something. They've asked that Council give an option and thoughts on what Council would like. At the various meetings, the best he could come up was the list he had on January 31, 2007 that one of the township goals

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would be they don't want Meadow's Road closed to all vehicular traffic whatsoever, but they would be willing to use it as one way west bound. No. 2 the township is unwilling to take over the ownership and maintenance of the stone arch Meadow's Road bridge for continued utilization for vehicular traffic as one way or two way. Everything else in the letter is predicated on whether you believe those two statements are correct. If they are not correct, let's talk about it. Mr. Kern said for him, it's correct. Council agreed.

Mr. Birdsall said we have the options of asking the County to keep the bridge and recognizing the obligation we would have to take the deed or give the deed to some other organization, but he doesn't know any organization that would take it. That's what we need to let the County know – do we want them to design the bridge at a location other than where the existing stone arch bridge is and leave as much of the stone arch bridge in place as possible for township ownership.

Mrs. deLeon is having problems with visualizing another place for this bridge. Did the county really give up on fixing that bridge? Mr. Birdsall said absolutely. Mrs. deLeon said it's their responsibility to fix that bridge. Mr. Kern said one of the reports stated that the stone arches are designed poorly. There's no keystone in the arch so that it could imminently collapse. Mrs. deLeon said how much research did they do into that? Mr. Birdsall said their comment was that is exactly what they have been doing. They have been nursing it along. They had it on a program quite a number of years ago and the Township objected to having it taken down. They've nursed it along and feel they can not nurse it along anymore. They have to put it on a program now. They feel they have an obligation to maintain the bridge. They feel they have a liability they have to watch out for. Using proper grant funds and what not as they can through their various budgeting, put bridges on various priority levels, this is now on the high priority level and they either plan to go ahead and build a new bridge or they plan to close it off altogether. Mrs. Yerger asked if demolition is a possibility? Mr. Birdsall said absolutely. That's what they would typically do. They would use as much of the existing right-of-way as possible – tear down the bridge and build a new one right in that same location with minor adjustments on either side. Anything else would be more troublesome to them. Mrs. deLeon said keeping in mind the widening of the flood plain and the encroachments into all that flood plain area. Mr. Birdsall said the span would be much larger which would allow actually less clogging of debris and logs and what not against the abutment so there would be a little less flooding on the uphill side although that doesn't mean there would necessarily be more flooding on the downhill side because that water goes right over the roads anyhow. It doesn't slow down very much. Damage gets down to the abutment and the stone.

Mr. Maxfield said recently there's been some flags and signs of surveying down there on the Meadow's side of the bridge, does Mr. Birdsall know what's going on down there? He's 90% sure it's the County. He doesn't know what they are doing though. They have months and months of study before they do anything. Mr. Maxfield asked if there were any numbers of the cost to the township if they were to take the bridge and maintain it for vehicular traffic? Mr. Birdsall said he'd have to make the same recommendation they are making and that is it is unsafe for vehicular traffic. Mr. Maxfield said the only way the bridge is going to survive is for pedestrian use only. Mr. Birdsall said that is correct. Mr. Maxfield would be in favor of doing that. Mr. Kern said what about reducing the weight and making it one way, would that change the County's opinion? Mr. Birdsall said they asked them to reduce the weight and are waiting for that response. They have their submission into PennDOT for the warning signs, and don't want to paint them up till they get the information back from the County. Mr. Kern asked if the township retained ownership, would they consider if we were to reduce the weight substantially just for cars? Mr. Birdsall said they are really the ones that would reduce the weight and then we would implement it. They intend to reduce the weight to 3 tons and would continue to maintain the bridge until they can line up the replacement, and will keep moving ahead. This is all interim.

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Mrs. Yerger said one of the things she's been discussing with Karen Samuels and Ted Beardsley, and they've expressed interest in pursuing investigating the bridge going on the eligibility of the National Historic Registry. She thinks it would help up as far as if we do decide to take maintenance, then what direction do we go as far as maintaining and restoring and all that kind of thing. Karen has graciously offered to let that be her project and she will start on it immediately. Ted will help her as much as he can. She will be in contact with Jim Birdsall and Jack Cahalan. They will start the process ASAP. Jack will provide her with everything the township has.

Jim Sturm, resident, said if the flow of traffic has already decided to maintain as it is now in that area – it seems to him that's an accident prone area. He has some thoughts on what might be done. He'd like the traffic flow included in the consideration of the bridge. Mr. Kern said there is a traffic study that HEA did.

Ms. Stephanie Brown, resident, said Jack was kind enough to share the notes with her from the meeting that the township and the county had. She has some real concerns. One is the fact that this bridge has basically been condemned because the rocks and stones are considered rubble quality. Mr. Birdsall said there are three things happening. One is that the mortar between the rocks is deteriorating and turning to gravel and sand. The rocks themselves have actually split. Because of the different stresses, they've actually sheared or split. The most important thing that the county was trying to explain to them in their description of rubble versus another type of stone arch was that many of the rocks do not have square cut faces that are matched up one against the other such that if the mortar did drop out, those rocks would come together and press against each other so they would hold each other up. They may be cut like that and another one cut like that so as the mortar deteriorates between the rocks because they are not uniform joints, the mortar turns like a roller bearings system or oil and allows the slippage to occur more easily. They are not all square cut like the Roman arches in Europe where nothing is going to shift. Ms. Brown said does HEA concur with the fact that this bridge is in danger of collapsing? Mr. Birdsall said yes, they do and they don't take that position lightly. He doesn't think Northampton County is monitoring the bridge, just making their normal inspections. Ms. Brown asked if an overweight truck going over the bridge has a bearing on it? Mr. Birdsall said certainly. Mrs. deLeon said the County is the one that said that about the bridge collapsing. Mr. Birdsall said we don't have the engineering responsibly and haven't done the engineering inspection, but certainly common sense would tell you if you took heavy trucks over the bridge, it's going to be doing more damage than light cars. Ms. Brown said it talked about something to do with the flooding and hydraulic arch, and the effect the RR bridge has on all this. Mr. Birdsall said that part of the letter is let's say there is a certain amount of flooding right now that occurs in that area and we say it's because the bridge backs up water and the debris catches in the arches, and it backs up and floods the road. That's causing the flooding. The point of that section of the letter is that even if that bridge were taken away and a new bridge of a longer span was built, that area could potentially still flood out almost the same as it does now because of the arch of the RR bridge further down stream being a cause of the backup. The County engineer will have to do a hydraulic analysis of the whole corridor by the bridge. Ms. Brown said one of the options to preserving the bridge would be to leave it as a monument as it were a pedestrian bridge. She doesn't understand how that could be as if the bridge is unstable as everyone says, how can taking some of the arches out create more stability? Mr. Birdsall said an arch has an end to it. If you took away one of the arches, you would have to re-fabricate something to hold up the end you'd be taking away. You'd need the support on the other end of the arch. It's not as simple as taking one arch out without thinking it through and providing necessary protection. Ms. Brown said the township takes care of the debris that collects there? Mr. Birdsall said he doesn't know. If the road crew is trying to open up the road, they might help to on an emergency basis to clear the road. Mr. Beardsley said he didn't know for sure. Ms. Brown cannot support modifying it in anyway and would rather see it torn down. That bridge is pretty special and there are a lot of people to blame for the deterioration. It's been left for many years unattended. She's disappointed in the whole process.

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Mr. Beardsley said he'd be real curious to see some sort of a sketch of the new bridge and what it would look like and where it would start and end. If someone has said this bridge doesn't have much historic significance and the construction isn't the greatest example of a stone arch bridge that could be preserved. That's just one persons opinion. That's a person who likes to build bridges. Mrs. Yerger said that's why Karen Samuels is going to go through the process and have it evaluated again. Mr. Beardsley said you can't make a decision as you don't have enough information. Mr. Birdsall said that's a very good suggestion. They could write back saying the exact thing to the County and ask them to develop a sketch for both alternatives – on the existing alignment and on an alternate alignment. Mrs. Yerger said you may also want to include that we are going through the process of doing a historic evaluation on the bridge for PHMC application process and they will have to give us some time. Ms. Brown said on the meeting notes, someone talked about a paper street, does somebody know what that's about? Mr. Cahalan said that's the one that runs up north. Mr. Birdsall said the lots along 412 and even part of the land that looks like it belongs to the Meadow's, was part of a subdivision plot years ago and that had a paper street on it similar to the paper streets in Steel City and Hellertown Park that aren't open. The one referred to in that letter is the one that goes up behind the homes that actually front on 412, called Baker Drive. She asked what that has to do with anything. Mr. Birdsall said he didn't know. Ms. Brown said if that bridge is so dangerous, why isn't it closed? Mr. Birdsall said it may last another 30 year's, no body can say for sure. How do you determine the weight bearing capacity of that bridge at this stage? He said it's really just an engineering judgment. It could last another twenty to thirty years. They feel they cannot financially afford to rebuilt it exactly as a stone arch. Ms. Brown said if the township is looking to preserve this bridge and we have some people who want to work on it, why don't we get the Professor from Lehigh involved? Mrs. Yerger said Karen contacted him, but he didn't respond to her yet. Mr. Kern said he contacted Profession Small by email and he did respond and said he would go on a field trip and go and look at the bridge. Mr. Beardsley said in the notes from the meeting, they talked about a bridge with a stone façade. If you are going to ask them for some rendering of what it would look like, you might want to see what that idea is. Vehicles way over 10 tons are still using that bridge. It's hard for him to call the police to ever find a truck that goes over that bridge. When they turn in off 412, you then see the signs and you can't back up into 412. You need a sign out on 412 saying there is a weight restriction on that bridge. Mr. Kern said they are in the process of doing that now, it's a PennDOT road. Mr. Beardsley said on map quest it doesn't say anything about the weight restriction on the bridge. We need to get that information to different entities telling them of the weight restriction. Ms. Brown can't agree with the township on making it a one way like they want to, but she thinks making it a one way the other way would be better.

Mr. Horiszny said on the last page, top line under No. 1, Major arch repair utilizing false work, is that because false work has gone on forever or is that a misprint. Mr. Birdsall said that should be one word, falsework which is a temporary structure that would support the construction.

- MOTION BY:** Mrs. Yerger moved for Mr. Birdsall to draft a letter with suggestions to Council in regards to the Meadow's Road bridge and have it go to the County.
- SECOND BY:** Mrs. deLeon  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

**B. MCCLOSKEY AVENUE – STORMWATER ISSUES UPDATE**

Mr. Kern said the staff would like to provide Council with an update on the storm water issues.

Mr. Cahalan said this issue was brought to them some time ago about storm water issues on Strauss Avenue. The Council asked them to look into it. There were issues up above Ms. Thomas house

that were causing that. They went out on a site visit with the Township Engineer, Zoning Officer and Mr. Horiszny back in November. They first reviewed the file for the Herman property that's on the northern corner of Stonestrow and Evergreen Road. That house was constructed in the late 1990's and the drainage pattern has not changed on that. They also reviewed the new dwelling on the south side of Stonestrow Road. That dwelling was recently constructed and appears to be in compliance with the grading plan. The Zoning Officer stated he walked that property and he noted a steady spring in the rear of the home that drains through this area. They found the upstream drainage patterns have not been recently changed. Then they went down towards Strauss Avenue and walked the alley that's causing the problem for Mrs. Thomas and her neighbors. It appeared to them that the runoff that flows through the alley enters the alley through the Andres property on the corner and the runoff that reaches the Andres property comes from the Woodruff Driveway which exits through an unopened portion of Walters Avenue on the west side. The runoff we are referring to from the Woodruff's driveway was added to by a roof drain leader on the east side of their garage door that was emptying in the direction of the driveway and then coming down onto McCloskey Avenue. As a result of that visit up there, they are working on two areas. The first was to request permission from Mr. Andres to install a swale to gather the runoff from Walters Avenue and convey it along Walters through the existing swale. Jim is going to talk about that engineering of the swale and that should reduce the volume of water that's traversing the alley. The other one was to request the Woodruff's to alter the direction of the discharge of the roof drain leader on the east side of the garage door. Since that visit, they have been in touch with Mr. Woodruff about the roof drain leader and he has changed the direction of the leader and it's now discharging that water out on in an easterly direction. They met with Mr. Andres and he was willing to work with them and wanted to see a drawing of what was proposed before he gave permission. Maybe Jim can talk about what that is going to entail. The only other recommendation they could make is the alley that runs behind your house. The only suggestion would be to pave that alley which would be something that the private property owners would have to do. There's no crown in the road and that would keep the runoff from crossing the alley and entering her downstream property. Those are the findings of what the township staff came up with. They will work on the swale on Mr. Andres property. They also included in the packet for Council, the other issue which was for the Turnbridge Partnership along McCloskey Avenue and was before the PC and there was discussion about the conveyance of the storm water along that property which is contributing to the problem.

Mr. Maxfield said there's an existing ditch and the applicant's solution to the storm water problem there was to make the ditch deeper. The ditch as it is now doesn't meet township ordinance and it certainly wouldn't meet it if it were deeper and the PC was uncomfortable with that because of safety and because it really wasn't addressing the problem because part of the statement that even though the ditch would be widened or deepened, the 100 year storm still would flood down through the area. The PC was reluctant to make a recommendation to further this plan and asked the applicant to go back and examine the issue again to see if they can meet the ordinance. It seemed like anything else would seem like too much disturbance. They talked about the swales in the back of the property and things like that, but it would disturb a lot of woodland and it probably would be a worse situation. They are going to have to address that. Ms. Thomas said there is water that is coming from the other end of McCloskey that comes down Walter, so will that swale take care of that also? It's coming down from the Stonestrow end. Mr. Birdsall said their recommendation to Council is more for the water coming down from the south section of McCloskey. The swale they are suggesting is not intended to take care of any of the water in front of Blair's. Mr. Greg Trexler, resident, said that isn't the only direction that the storm water comes down, with the roof spouting. That's not the only reason they were getting all that water. Mr. Cahalan said they identified several sources. Mr. Trexler said there is still a ton of water that's still in that general direction and not just coming out of that driveway. It's coming all over that area. You drive there in a major storm and have a hard time controlling your car. Mr. Maxfield said the PC is very aware of that and that's why they are trying to get a handle on it. That issue will be addressed. Ms. Thompson said there's time it rained and the next day they come home from work and the water is

still flowing down through the alley. So we are waiting on Andres to see if this is going to happen. Mr. Cahalan said yes, they should be able to get that done fairly quickly. Mr. Birdsall said they are recommending paving part of it.

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

Mrs. deLeon asked to go out of order and have public opinion as it was getting late. Mrs. Barbara Ryan, resident, said she wants to give a brief report on the SV Conservancy. She had a conversation with Scott Doyle from PHMC this week and there's been some ongoing discussion as to whether or not their covenant, with them, pertains to the entire property or just the Widow's House. It was Scott's interpretation that the covenant that it does cover the 2.2 acre parcel. We would have not qualified for eligibility for National Historic Registry just based on the Widow's House alone. That application took into consideration the Heller Homestead, the Widow's House and the root cellar and the surrounding grounds and barn. He will put that in writing and send it out Council, Jack and the SV Conservancy. Mrs. Yerger asked what happened to the artifacts. Mrs. Ryan said she is looking for someone who might have that expertise to be able to date them. Mrs. Yerger said how about the Kemmerer Museum? She said yes, she actually works with those people and she can ask them. Mrs. deLeon said wasn't there a hinge discovered? Mrs. Ryan said Tom and Keri left it on the step, but somebody must have taken it. Mr. Maxfield said Fran saw it afterwards and he identified it as a shutter pin. Mrs. Ryan will ask him where it is as Mr. Maxfield left it laying on the right step. There were other things found and they were 2" x 2" and they were brims of something and edged and most of them were glazed, some were redware pieces. It's hard to date. Someone at Lehigh might have some expertise. Ms. Brown said Professor Small from Lehigh might be able to help Mrs. Ryan. Mrs. deLeon said Lisa from Attorney Treadwell's office sent an email around about some dates for Scott Doyle for a conference call, do you really think that's necessary now? Attorney Treadwell said when he received Mr. Doyle's legal opinion, he will look at it and respond to it and report back to Council. His understanding was we had been trying to contact Mr. Doyle for at least a week and he had some medical issues. They did try and set up a conference call. He was not aware Mrs. Ryan was going to contact him on her own. It's up to Council whether you want him to contact him again or whether we should ask for a written legal opinion. Mrs. deLeon said he was aware of the call made by your office to the legal department, there, where they did state that it was all the buildings. Attorney Treadwell said that's not true as he talked to their legal department and they said if we wanted a written legal opinion, we needed to request one in writing which we have not done, and he will not do, unless Council authorizes him to do that. Mrs. Yerger said we have Mr. Doyle and then we have another entity in the legal department as Mr. Doyle is not in the legal department? Attorney Treadwell said he doesn't believe Mr. Doyle is in their legal department. Mr. Kern said who is Mr. Doyle? Mrs. Ryan said Mr. Doyle is like the liaison between the organizations and PHMC – the advisor who will advise them and oversee our documentation for restoration. He's the one that has the authority to say yes, you are doing it right or here's a reason you could call. She asked him if they should do a three way to Linc and he said he'd already contacted the PHMC Council and he said that Linc had already spoken to them. Mr. Maxfield said a conference call, what are we talking about? Mrs. Ryan said since she called Scott Doyle, she asked him if he wanted to...Mr. Maxfield interrupted and said that direction was for Attorney Treadwell to contact the PHMC, not as a conference call. We wanted Linc's opinion. He's our solicitor, and we want his legal opinion about the document. He doesn't remember saying anything about a conference call. Mrs. Ryan said she wasn't taking any direction from Council, she was only calling Scott as she is President of SV Conservancy. Mr. Maxfield said who would have been on the conference call? Mrs. deLeon said after the meeting, she talked to Glenn Kern and asked him if it would be a good idea since she was the liaison that she would be involved with the conference call. Mr. Kern said and you had asked Jack if that was okay. Mrs. deLeon said no, this was after the meeting. Mr. Maxfield said he's not comfortable with that, as Council gave a direction to Linc to perform a certain duty, not to make a conference call. He would still like to hear Linc's opinion after talking to the legal department at PHMC and Linc's opinion only. Attorney Treadwell said his legal opinion, based on the review of the documents has not changed since the last meeting. There are two documents. There is one document that refers to the grant between PHMC and the SV Conservancy, not the Township and there's another document that pertains to the declaration of

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covenants which is between PHMC and the township. His legal opinion has not changed that the document that pertains to the township regarding the covenant only applies to the Widow's House. Mrs. deLeon said can we use the word "Heller Homestead – Widow's House" because we were being specific back then to say where the money was being used. There were several buildings that were contributing to the historic significance of that site. It was clear that the \$4,700 was to go to the Widow's House, not the root cellar, not the Heller Homestead, the Widow's House. Attorney Treadwell said the covenant document still refers to the structure, not plural, it says premises. It doesn't say property. Mrs. deLeon said here we go again with word definitions. Attorney Treadwell said he's not going to get into an argument with his legal opinion. His legal opinion is what it is. If you don't like it, every person up here could have their own legal opinion. If you want him to do his job as Solicitor, he's given his opinion and it is what it is. Mrs. deLeon said your opinion won't change? Attorney Treadwell said no. Mrs. deLeon said that's a nice attitude. Mrs. Yerger said her suggestion is that if Linc has been in preliminary contact with the legal department for PHMC, perhaps it would put a definitive answer to this. She would like to propose that Linc recontact the PHMC to define the legal opinion of the PHMC or their legal department on this matter and that we have it in writing so it can go with the file so that it would hopefully allow any more discussion in the future that we will have a definitive answer one way or the other.

**MOTION BY:** Mrs. Yerger moved to have Linc recontact the PHMC to define the legal opinion of the PHMC or their legal department on this matter and that we have it in writing so it can go with the file so that it would hopefully allow any more discussion in the future that we will have a definitive answer one way or the other.

Mr. Horiszny said if we don't authorize Linc to call him again, they said they requested a letter. Mrs. Yerger said everything now needs to be in writing. Mrs. deLeon said the letter from Scott Doyle may be from their legal department. Mr. Kern said maybe, but that's what we need to find out. Mrs. Ryan asked why this is an issue with the Council? Mr. Kern said he's wondering about that himself. Mrs. Ryan said are we planning to split up the property or anything like that? She has no idea why we are having this discussion? Mr. Kern said he doesn't either. Does anyone know why we are having this discussion? Attorney Treadwell said he didn't know why we were having this discussion at the last meeting. He doesn't see this as an issue. Mrs. Ryan said what's the impact for the SV Conservancy? What does this mean if you don't recognize the Heller Homestead as being part of the PHMC eligibility criteria for National Historic Registry. Mrs. Yerger said that's not what we're saying. Mr. Maxfield said this goes back to the issue originally for request for money for the Heller Homestead. What Council wants is to make sure that what we are spending money on is not a frivolous thing, since we are spending Township people's money and we want to make sure we are spending it properly and the right way on the right things. So far, we've been going on people's hearsay, peoples opinions. People that aren't professionals. This is what Council asked last time. They asked Linc to talk to another lawyer for the PHMC to get the legal opinion of what that document actually said. We didn't ask for another lay opinion of it We asked for a professional opinion. That's why he's totally puzzled by conference calls. The Council made a direction. He doesn't like that direction being subverted behind Council's back into a conference call. We did not say conference call. We said Linc, make a call and give us your determination. That's what he expects to happen. Mrs. Ryan said anybody has the right to call PHMC and get clarification on a document that involves an organization. She's the President of the organization. She wasn't asking for a legal opinion. She was asking for our liaison's interpretation of the document. Mr. Maxfield said he's not sure what he's talking about is your calling PHMC. What he's talking about is Linc's contact with PHMC being turned into a conference call. Mrs. Ryan said he misunderstood her sentence. Mr. Maxfield said it's not what you said, it's what Priscilla said. Mrs. Ryan said she's the one that used there term conference call. That's what it's called to her when you three way someone into a call. She's the one that said to Scott, do you want to get Linc Treadwell on the phone so we're all hearing the same conversation. Mrs. Yerger said that's why the letter needs to go in writing and the response needs to come back in writing. Mrs. Ryan said that's what she asked Scott to do. Mrs. Yerger said the question also needs to go in writing. That way everybody is assured the question is posed to everybody's satisfaction and it's covered all the bases that everybody feels needs to be covered. That's why it has to be a two way in writing and it will put

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everything to rest. Mrs. Ryan said what will it put to rest? What are we putting to rest? Mr. Maxfield said we are asking for the opinions of professionals. Nothing more. If someone says to him they want to spend \$40,000 on windows, he wants to make sure that money gets spent in the proper way. If he doesn't know the status of the place in the long term, he's not doing his job. He wants to know the exact status, per a professional. If professionals say it's a wonderful place, go for it, it deserves it, fine, he has no problem with it. Then it's justified and it's documented. Mrs. Ryan said she's confused between the difference in a covenant and a difference between eligibility criteria for National Historic Registry. Are you differentiating the two or is it one in the same? Are you saying that if they come back and say the covenant, the \$4,500 in grant money, only refers to the Widow's House, does that in itself negate the fact that the premises is eligible for National Historic Registry. Does that change anything for you? Mr. Maxfield said how could it? Mrs. Ryan said then how would that negate the fact that it's still a worthy property, aren't those two different things? Attorney Treadwell said the reason this came across his radar screen is because the Township road crew went out there and buried a PVC pipe and somebody brought it to his attention, and Jack said to him, is this okay under the covenant. Attorney Treadwell looked at the covenant and he said yes – it doesn't affect the historical value of the structure that's referred to in the covenant. That's how it came up. Windows, all this other stuff going forward, that's how it came to him and that's how he got involved at the last Council meeting. Council asked him to call, he called and they had something set up for tomorrow. He talked to the Solicitor General's office at the State when he couldn't get in touch with Mr. Doyle and they said if you want an opinion, send him a question in writing and we'll send you one back. Mrs. Yerger said that's fine. Mrs. Ryan said that came from her email asking Jack if PHMC had been contacted because it had been a site disturbance. Mr. Cahalan said the deed covenant came up earlier than when Linc saw it. It came up at the budget hearing and there were questions about funding of the repairs to the house. We started looking at the deed covenant and then even further back, at 2002 when the grant was received, there was a question that this Council had about that deed covenant. At that point, there were questions the Solicitor was asked to look at that, and there wasn't any resolution to that issue then. That question of what we're saying here tonight, does it cover the whole property, or does it just cover the Widow's House has been hanging around for awhile. It did come up recently with the digging, but it was there at the budget meeting and several years ago. Mr. Kern said if the reason it keeps circling because it's challenging to do maintenance work on the house because any time we do it, we have to check whether it's under the covenant? Mr. Cahalan said no, he thought Council was asking with the deed covenant, you have to maintain it at a certain historical type of thing. They were asking questions about what level of repairs would have to be done to retain it at that level. The question was if we are going to continue to do repairs to the house, what standards are we going to be held to. That's where we went back to the grant from PHMC and looked at the deed covenant and said what are we held to. That's when we started to pull that out and look at it as a reference and asked Linc to start weighing in on it. It has been a question before Staff and with the solicitor for several years. Mrs. deLeon said going back to those minutes of 2001, 2002, the Manager at that time, and whoever had questions raised about applying a covenant to the parcel, the premise, the property and again, the minutes only reflected bits and pieces and Council heard that and the motion still was to accept the covenant, per the terms of the legal documents from PHMC and that was to the property. There are two documents. There is the agreement that was signed and approved, and a little bit later there was the covenant recorded for the property. It all refers to the eligibility letter. The documents are the documents. She has not heard to this minute any conflicting information that would change her mind that the covenant does not apply to the whole site. They signed the documents. She was very involved with that. The township kept the \$4,700. Attorney Treadwell said the money went to the conservancy. Mrs. deLeon said she doesn't really think so. The money was the bicentennial money and was supposed to go to the historical society, but they were disbanding at the time, and Judy Maisch discovered this unused money in our general fund for many years and she remembered what it was spent on, and they had two years to use the money and if they didn't use the money then Council would find another historic use for it. It went to the conservancy. When we applied for the grant, the money was here. She is 99% sure it stayed here. Laura Ray has the treasury stuff, so she would have the checkbook whether we received the money or not. It was a matching grant. Mrs. Ryan said we are just going to wait for a legal opinion, but it's not going to change anything that really happens with the Conservancy, on our level, at terms of what our members are doing, what our mission is,

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what our fundraising efforts are. Would that be accurate? We'll just keep doing what we're doing. Mr. Maxfield said he finds it interesting that there seems to be an attempt to fault us for being stingy with other people's money. All they are doing is asking for documentation so we can spend things in a proper way. Ms. Ryan said no, she's just clarifying where she lead her members to go and how this decision will affect us. She's looking for the bottom line. Mr. Maxfield said so is he. That's why he asked of a legal opinion of Linc, not of Priscilla. That's why Linc is a lawyer and he wants to know Linc's legal opinion of that covenant. Mrs. Ryan said can we agree that she was in her right to call Scott Doyle on her own. Mr. Maxfield said of course, it's not what he's talking about here.

**SECOND BY:** Mr. Horiszny

Mr. Kern asked if anyone in the audience had any questions or comments? Mrs. deLeon said whenever we direct our staff to look into a developer's problem, an issue, whatever category you want to put it as, if two Council members wanted to follow up and attend a meeting, the door was never closed in that persons face, so she really objects to her being told not to call the solicitor and ask her to be involved in a conference call. Mr. Maxfield said that was an official call that this Council gave direction to the solicitor to make for a legal opinion. You are not a lawyer. We did not ask for a conference call. He doesn't see the difficulty with having Linc call. He's a big boy, he can take care of himself. If you don't trust him, that's another issue. If Linc can give a legal opinion, that's the one he will listen to. Mrs. deLeon said any time a Council member wants to attend something outside this meeting room, then it needs everybody's permission. Mr. Maxfield said he doesn't have any more to say.

**ROLL CALL:** 5-0

**V. TOWNSHIP BUSINESS ITEMS**

**A. AUTHORIZE COLLECTION OF 2007 REAL ESTATE TAXES**

Mr. Kern said Council should authorize the Manager to direct the Finance Department to collect the 2007 real estate taxes in the amount of \$1,324,179.71.

**MOTION BY:** Mr. Horiszny moved for approval to direct the Manager to collection 2007 real estate taxes in the amount of \$1,324,179.71.

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

**ROLL CALL:** 5-0

**B. RESOLUTION 30-2007 – LIQUIDATION OF A TOWNSHIP BANK ACCOUNT**

Mr. Kern said Resolution 30-2007 has been prepared to close the Pennies for the Park Fund and deposit the money into the existing Polk Valley Park Fund.

**RESOLUTION #30-2007**

**A RESOLUTION AUTHORIZING THE LIQUIDATION OF CERTAIN TOWNSHIP BANK ACCOUNTS**

**SECTION 1.**

The Council of Lower Saucon Township hereby authorizes the liquidation of the following Township Bank accounts in accordance with Article XXXII, Section 3204(a) (3) of the Second Class Township Code, and in accordance with the 2007 Township budget:

LIQUIDATE

Account Name  
Pennies for the Park Fund

DEPOSIT TO

Account Name  
Polk Valley Park Fund

**SECTION 2.**

The Township Manager is hereby directed to take the necessary steps to implement this Resolution.

**RESOLVED AND ENACTED** this 7<sup>th</sup> day of February, 2007.

**MOTION BY:** Mrs. Yerger moved for approval of Resolution 30-2007.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**C. RE-AFFIRM ALL ACTIONS TAKEN AT JANUARY 17, 2007 COUNCIL MEETING**

Mr. Kern said staff is requesting Council make a motion to reaffirm all the actions taken at the January 17, 2006 Council meeting due to a mix-up with the public advertisement.

Attorney Treadwell said the January 17 meeting was not technically advertised at the beginning of the year with all the rest of the meetings, so in order to correct that deficiency, if Council agrees, you can make a motion to reaffirm that was done at that meeting unless someone wants to change their vote on something.

Mrs. deLeon said where does this put us legally? Attorney Treadwell said this is trying to fix it. Mrs. deLeon said we technically met at an illegal meeting on January 17. Attorney Treadwell said you met at a meeting that was inadvertently not advertised, so the question tonight is that we now have an advertised meeting and if you agree to reaffirm the actions that were taken at that meeting, then that will fix the discrepancy. Mrs. deLeon said if she still has an opinion, she believes her opinion was at an illegal meeting and she's very upset that this happened. Attorney Treadwell said it happened and the question is do you just want to get rid of everything that happened at that meeting and just put it all on the next agenda or do you want to reaffirm what you did at that meeting? Mrs. deLeon said it would have been nice to have a list of all the actions so that it would have been more clear. Attorney Treadwell said it's in the minutes.

**MOTION BY:** Mr. Horiszny moved to reaffirm all actions taken at the January 17, 2007 council meeting.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone in the audience had any questions or comments? Mrs. deLeon said since we are fixing it tonight, we are kind of curing it, if that's the legal term. Attorney Treadwell said we are fixing the deficiency but yes, curing it would be a good word. Mrs. deLeon said fortunately there's no deadlines that were expired, so by doing this tonight, in your legal opinion this is fixing it. Attorney Treadwell said or curing it.

**ROLL CALL:** 5-0

**D. RESOLUTION 31-2007 – AMEND FEE SCHEDULE TO PROVIDE FOR STORMWATER  
MANAGEMENT APPLICATION FEES**

Mr. Kern said resolution 31-2007 has been prepared to amend our fee schedule to provide for fees associated with storm water management applications.

**Resolution #31-2007**

**ZONING, SUBDIVISION, AND LAND DEVELOPMENT  
FEE SCHEDULE RESOLUTION**

**WHEREAS**, the Lower Saucon Township Zoning Ordinance #88-2, as amended, and Subdivision and Land Development Ordinance #92-1, as amended provide for certain fees that are to be paid to the Township General Fund for reviewing applications and processing plans and applications; and

**WHEREAS**, these fees are to be established to provide for general reimbursement to the Township General Fund for administrative costs associated with processing the applications and plans, distributing the applications and plans to various review agencies, and

**WHEREAS**, the Township of Lower Saucon is desirous of establishing a uniform Fee Schedule for such applications so that the general administration costs associated with processing each application does not have to be calculated on a case-by-case basis,

**NOW, THEREFORE**, be it resolved and it is hereby resolved as follows:

1. All “whereas” clauses are incorporated herein by reference,
2. The Lower Saucon Township Council hereby repeals fees in Resolution #22-2000, #17-2002, #19-2003, #23-2004, #22-2005, #22.1-2005, #31-2005, #49-2005, #22-2006, #45-2006 and #22-2007 and Schedule for Submission Fees for Zoning, Subdivision and Land Development Applications and other schedules and sets forth fees as follows:

**FEE SCHEDULE**

**1. Zoning Permit Fee Schedule**

A.	All Permits Requiring Uniform Construction Code Approval	\$4
B.	Residential	
1.	New Residential	\$200
2.	Additions	\$100
3.	Interior & Exterior Alterations	\$25
C.	Commercial/Industrial with Change in Use (new construction, additions, alterations, changes in occupancy)	\$500
D.	Commercial/Industrial with no Change in Use (new construction, additions, alterations, changes in occupancy)	\$250
E.	Signs	
1.	Up to 50 s.f.	\$50
2.	Greater than 50 s.f.	\$50 + \$1/s.f. over 50 s.f.
F.	Accessory and Miscellaneous Uses	
1.	Decks under 250 s.f.	\$20
2.	Sheds under 250 s.f.	\$20
3.	Fences and other miscellaneous structures	\$20
4.	Tree removal (excluding Forestry)	\$20

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5.	Decks over 250 s.f.	\$50
6.	Sheds/accessory buildings over 250 s.f. requiring a foundation	\$50
7.	Swimming Pools	\$50
8.	Demolition	\$25
G.	Road Encroachment Permit	\$50
H.	Moving Permit	\$5
I.	Occupancy Permit (not associated with an accessory uses building permit)	\$5
J.	Temporary Occupancy Permit	\$75
K.	Home Business and Accessory Uses Permits	\$5
L.	Sanitation (Septic) Permit	
1.	Percolation Testing Performed by Township	\$315
2.	Percolation Testing Witnessed by Township	\$175
3.	Application Fee (non-carbonate area)	\$160
4.	Application Fee (carbonate area)	\$280
5.	Final Inspection (sand mound system)	\$175
6.	Final Inspection (in ground system)	\$100
7.	Repairs	\$125
M.	Road Weight Limit Permit	\$50
N.	Grading & SESC Permit (includes review of one re-submission)	\$300
1.	Additional Resubmission Fee	\$60
2.	Carbonate Geology Review	\$60
O.	Stormwater Management Applications	
1.	Application Fee	\$50
2.	Escrow	\$500

**2. Temporary Zoning Permits**

A.	Portable Signs for Temporary Use	\$50
B.	Temporary Structure Permit (sales trailer, etc.)	\$50

**3. Miscellaneous**

A.	Zoning Ordinance with map	\$20
B.	Zoning Map	\$5
C.	Subdivision and Land Development Ordinance	\$15
D.	Comprehensive Plan	\$25
E.	Natural Resource Inventory	\$20
F.	Copies	\$.25
G.	Returned Check	\$50
H.	Pavilion Rental (Town Hall Park)	
1.	Resident	\$100
2.	Non-Resident	\$150
3.	Deposit	\$50
I.	Ballfield Rental Fee (Required for leagues requesting usage at one night/week)	
1.	Resident	\$175
2.	Non-Resident	\$200
J.	Rental of Seidersville Hall (certificate of insurance and \$50 deposit required)	
1.	Resident	\$25/2 hrs. \$35/4 hrs. \$65/5+ hrs.
2.	Non-Resident	\$35/2 hrs. \$45/4 hrs. \$75/5+ hrs.

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**4. Licenses**

A. Junkyard License \$250

**5. Finance Charges**

A. Tax Collection Services \$20  
 B. Duplicate Tax Bill \$10

**6. Subdivision/Land Development**

	<u>Application</u>	<u>Escrow</u>
A. Site Plan or Formal Sketch	\$75	\$1,500
B. Site Plan for Landfill/Quarries	\$75	\$5,000
C. Lot Line Changes	\$75	\$1,500
D. Minor Subdivisions	\$100	\$1,500
E. Major Subdivisions		
1. Preliminary	\$400 + \$5/lot	\$3,000 + \$50/lot
2. Final	\$100	
F. Land Development		
1. Preliminary	\$400 + \$50/1,000 s.f. of building area	\$3,000 + \$50/1,000 s.f. of building area
2. Final	\$400 + \$50/1,000 s.f. of building area	Escrow brought up to original deposit
G. Revised Submissions	½ of Filing Fee	Replenish
H. Act 537 Planning Module Review		
1. 1 or 2 lots	\$100	\$500
2. 3 to 6 lots	\$250	\$500
3. 7 or more	\$500	\$500

**7. Application for Hearing (ZHB, Council, or Bldg. Code Board of Appeals)**

A. Residential	\$50	\$300
B. Multi-Family	\$200	\$1,000
C. Institutional/Recreational	\$200	\$1,000
D. Commercial	\$200	\$1,000
E. Shopping Center	\$200	\$1,000
F. Industrial	\$200	\$1,000
G. Challenge to Validity of Zoning Ordinance	\$3,000	\$500
H. Conditional Use	\$1,500	\$500
I. Curative Amendment	\$3,000	\$500
J. Application for Rezoning	\$1,500	\$500
K. Miscellaneous (Involving requests to Council requiring the Township Attorney or Engineer to review or render a decision or opinion)	\$50	\$500

**IN WITNESS WHEREOF**, this Resolution has been duly enacted this 7<sup>th</sup> day of February, 2007.

Mr. Kern said now that we have a stand alone storm water management ordinance which Council adopted at a previous meeting, we are requiring approval to amend the fee schedule. There's an application fee of \$50 and an escrow of \$500 which will replace previously where there was a \$200 fee that was part of the

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grading permits. This will be amended as indicated. Chris gave you a copy of an application form that is used in Springfield Township and they'll be some alterations on that. At the bottom of that, it indicates from each drainage plan review a fee of \$50 and an escrow of \$500 and that will coincide with the amended fee schedule.

**MOTION BY:** Mr. Kern moved for approval of Resolution 31-2007.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

**E. ORDINANCE 2007-08 – ACT 4 AMENDMENT – ALLOWING FOR EXEMPTION OF MILLAGE INCREASES ON TOWNSHIP ACQUIRED OPEN SPACE INTERESTS – AUTHORIZE ADVERTISEMENT**

Mr. Kern said ordinance 2007-08 has been drafted which allows real property in which open space interests have been acquired by a local government to be exempted from further millage increases if the governing bodies of each taxing district agree and adopt an ordinance or resolution.

Mr. Cahalan said this is part of the completion of the open space efforts that Council has taken with the adoption of the passage of the EIT increase. This will enable us if the township acquires interest in open space properties, it will allow you to freeze the millage increase in the future on those properties. It has to be done in conjunction with the school district. We talked to the school district and council members have addressed them. We believe they are in agreement with this step, but they still have to take action.

**MOTION BY:** Mr. Kern moved to approve authorization of advertisement of the ordinance 2007-08.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**F. ORDINANCE 2007-09 – AMENDING THE REALTY TRANSFER TAX PURSUANT TO ACT 40 OF 2005 – AUTHORIZE ADVERTISEMENT**

This agenda item is tabled.

**VII. MISCELLANEOUS BUSINESS ITEMS**

**A. APPROVAL OF JANUARY 17, 2007 MINUES**

Mr. Kern said the minutes of January 17, 2007 Council meeting have been prepared and are ready for Council's review and approval.

Mrs. deLeon said on page 11 of 26, a spelling correction, "Extention" should be "Extension", line 19. On page 13 of 26, line 52, "Huffert" should be "Hoffert". Mr. Kern said on page 16 of 26, line 34, "cognizance" should be "cognizant". Page 4 of 26, line 16 "verbage" should be "verbiage". Page 12, line 36, change "we" to "he means 150 yards". Mr. Horiszny said page 12, line 11, last word should be "Applebutter" not "Applewood". Page 25, lines 24 and 28, "Rich Ziegler" should be "Rich Sichler". Leslie – I picked one up, page 26, at adjournment motion, change "Mrs. deLeon" from "Mr. deLeon".

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**MOTION BY:** Mrs. Yerger moved for approval of January 17, 2007 minutes, with corrections.  
**SECOND BY:** Mr. Kern  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 4-1 (Mr. Horiszny – No)

**VIII. COUNCIL AND SAFF REPORTS**

**A. TOWNSHIP MANAGER**

- He handed out a copy of a proposal that came in from Hellertown Borough on a yard waste composting site. If you had a chance to look at it, it's a continuation of the effort we are trying to do with Hellertown to try to establish a joint recycling center at the Hellertown farm property adjacent to Polk Valley Park. The first step would be to get the necessary permits from DEP and this proposal sets out the steps that would be necessary to take that first portion of the action. He'd like to tell Council he'd like them to take a positive step on this by authorizing the township to enter into an intermunicipal agreement with Hellertown Borough to start participating in this action to bring it to fruition at the site. He'd ask that if Council is willing and one of the steps would be to use some of our increased recycling performance grant we are getting this year to commit to pay half of the cost of this study which is \$6,100, so we're talking about \$3,000 to assist Hellertown with getting this off the ground. The other step he'd like to request is to get Jim Birdsall and HEA authorized to work cooperatively with Hellertown Borough and Barry Issett to get this moving forward as rapidly as possible. Mrs. Yerger said did they give any indication as far as the traffic movement and where they are going to enter and exit? Mr. Cahalan said right now it would be the Springtown Hill Road. Mr. Maxfield said we should say that's what we want. It should not be entrance through Polk Valley Park. Mr. Cahalan said they came to the Landfill Committee and discussed that and they got that answer.

**MOTION BY:** Mr. Horiszny moved for approval to draft an intermunicipal agreement – a commitment to pay half of the \$6,100 cost and authorization for HEA to get involved with the project.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

- He sent to Priscilla and Glenn, who are the representatives to the Fire Chief's group have been meeting with the Fire Chief's about the fire equipment replacement fund. The last meeting they were discussing the equipment that Steel City Fire Company is next in line to purchase. The Fire Chief's were looking for some direction from Council members as to what our contribution would be towards that equipment which could be in the neighborhood of \$500,000 for an engine. If you recall at the budget hearing we had, the staff made a recommendation to Council that they committee in this year's budget put \$500,000 from the landfill fund into the fire equipment replacement fund bringing the balance of that fund up to \$1.1 million. In order for that to grow and earn some interest, and to insure the long term viability of the fund, we recommended that the disbursements to the fire companies be limited to \$200,000 a year, every two years. That was the recommendation we had and he repeated that to the Fire Chief's at the last meeting. They are looking for a percentage range. They wanted it brought up at Council meeting. Mrs. deLeon said she thought we never decided on a figure. We were going to talk at the next fire company meeting which was in February, and then we were talking 70/30. Mr. Kern said they were leaning into a percentage, but it was never identified. Mrs. deLeon asked if he was expecting them to give a recommendation for a number? Mr. Cahalan said he was

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passing along what they had asked of him, and he was asking for direction from Mr. Kern and Mrs. deLeon. The only recommendation we've given so far is the one we made at the budget meeting and it was the \$200,000. Beyond that, there was no percentage. Mr. Kern said he talked to Jack about the percentage, and he was nervous about a percentage. It's not tied to anything – a percentage of what are we going to be committing to as opposed to a hard number? Mrs. deLeon said the fire company, for example, on the other hand is saying if you say 80% of \$500,000 and we gave them that much, they'd know they have to make up the 20%. It's hard for them to say they will commit with a truck without knowing the amount. Mrs. deLeon said the different fire companies will have a ladder truck, but Steel City and Southeastern will have smaller trucks, so to say a dollar amount, that's not right either. Mr. Cahalan said he will go back to them and say we want to meet again in March. The only recommendation we have now is for the \$200,000. Mrs. Yerger said how do you determine size for the fire companies? Mr. Cahalan said we do have a good process where they work together so there's no duplication of equipment. Mrs. deLeon said there are boundaries drawn. Se-Wy-Co needs a ladder truck because of Society Hill, it depends where it is. Mrs. Yerger said you may want to start with a base rate, like \$150,000 or \$200,000 and then according to the size of the service area, then give them a percentage. Mr. Cahalan said you still want to have coverage of certain areas of the township, so you do need a truck in Steel City. Mrs. Yerger said when you do the match, they could get their \$200,000, then any additional over that would be 10% based on their size. Mr. Horiszny said it could also depend on call frequency.

**Mrs. Yerger**

- She said we have a very nice letter from Margie Segaline, who asks if the EAC or Parks could come up with some possible projects for the Girls Go Green on March 31. It was discussed at the EAC meeting and considering the timing, it was too early to plant anything, so it was decided to clean up the parks. That would be safe in the park areas. Perhaps the school could also be done and the Lutz Franklin Schoolhouse. The township will provide bags and gloves. If they have any other ideas, please let Sandy know.
- She wanted to thank Jack and Chris Garges for taking care of the complaint on the Saucon View Apartments and sending a letter to Bethlehem.
- They asked at the EAC meeting for permission to make contact with Upper Saucon EAC. They have a newly formed EAC and wanted to see if there are any joint projects to share.
- Lastly, we were very good and reviewed our goals and we accomplished most of them. One of them we didn't accomplish was a five year plan. We intend to do that and have it in writing as of March. With that in mind, Chris has asked for it also, she'd like to have the Park and joint parks and rec plans which affect both the EAC and the Park plan and would like to go forward with a five year plan for the EAC and mingle it a five year plan with Parks and Rec's as well as a five year plan to the Historic Society since there are parks associated with it. With board approval of the Historical Society and the Conservancy, she was hoping they could come up with a five year projected plan so we can work together. She'd like to have it in April. Mrs. deLeon said she would like to see Parks and Rec's more involved. The Upper Saucon and Lower Saucon plan there are many errors in it. The nature trail wasn't even included on the homestead. We have to be mindful of that when we are looking at the plan.
- The signage was discussed for the Heller Homestead at the EAC meeting and will need someone with a biology background to make sure it's accurately portrayed.

**MOTION BY:** Mrs. Yerger moved to have Linc contact PHMC and ask them what they think.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.

**ROLL CALL:** 5-0

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**Mr. Maxfield**

- In our EAC packet, there is a piece on the Green Valley Coalition to Lehigh Valley Group and they are asking for a donation from us. It's \$50 and we have given in the past in the EAC's name to Green Valley Coalition.

**MOTION BY:** Mr. Maxfield moved to give \$50 to Green Valley Coalition in the EAC's name.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

- He's been reading a lot in the paper about the barn and the efforts to save the barn. He'd like to do something small that may help it. He'd like to ask the township to purchase tarps to cover what is left of the arch. Mrs. deLeon said when the township knocked down the barn back in 1998, we had covered it with plastic tarps and some stone expert at the time, stated that was doing more harm. We took down the tarps and left it exposed, and now, you hear about the rain coming down and mixing with the mortar and expanding the joints. Is that adding to it? She'd like to do whatever we can to preserve what's left, but she doesn't know. Mr. Horiszny suggested to have Linc call PHMC and ask them what they think. Mr. deLeon said Bob Ensinger, a professor from Kutztown, and has authored the book on PA Barns and has been a past conservancy speaker two times, have offered his services.

**MOTION BY:** Mr. Horiszny moved to have Linc contact PHMC and ask them what they think.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

**Mr. Kern**

- He was happy to hear that Karen Samuel's was going to do the paperwork necessary for the National Historic Registry for the possibility of the bridge. He'd like to ask if it would be possible for staff to contact her for two other national register appropriations. One is the Heller Homestead to get that on the National Register. Mrs. Yerger said that is a lot more complicated and requires a lot more research and not that Karen wouldn't put a whole lot of.

**MOTION BY:** Mr. Kern moved to have staff contact Dave (Kimmerly) from Heritage Conservancy for a proposal on getting the Heller Homestead on the National Register as well as the Old Mill Bridge would need to separately go on the National Register and the Schoolhouse.

**SECOND BY:** Mrs. deLeon

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

**ROLL CALL:** 5-0

- Mr. Kern would like to have an independent opinion on the historical period that the Heller Homestead should be restored to. Mrs. deLeon said when we contacted Christine Ussler several years ago, she gave us three different proposals. Mr. Cahalan said the proposal was for the different properties. Mrs. deLeon said it was for the Heller Homestead. Mr. Cahalan said he didn't recall. Mrs. deLeon said she gave us dollar amounts of historic things. Mr. Kern said they could be refereed to as far as a reference for the opinion. Mrs. Yerger said it might be part of the actual listing when they go through the research. Mr. Kern said let's hold off on that until we see the results from Heritage Conservancy. Mrs.

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deLeon said when PHMC sent us our letter, it says “begin the period of significance with the earliest, when we do the next step, and they talk about the different ages of the building.” In Christine Ussler’s structural report, she kind of dated the Heller House and she should have put the main house. She dated it from 1770 to 18 something.

**Mrs. deLeon**

- Jack gave us a copy of a letter from Advance Geo Services regarding PPL Interstate Energy Company on Applebutter road. She’s assuming it’s the tank farm. Please send one to Southeastern Fire Company as they are the backup to Steel City.
- Council got a copy of the landfill’s engineer monthly status report meeting which is dated February 1. There are some issues with gas leakage and Ron will be happy to know that the perimeter access road to access various wells appear to need some maintenance to address overgrown vegetation and fallen branches. The new inspector is paying attention.
- Jack, you had sent an email for Caroline Yeakel for the partnership. She’d like a copy of it as it would take her too long to download.
- We talked about a maintenance schedule and in reading Christine Ussler’s report, she said there should be bi-annual inspections of the Homestead properties. We talked about this under budget and she thinks the township should look into a maintenance scheduled for all public buildings as she’ll be asking for an update during budget – every six months.
- In reading the minutes, when we approved the grading ordinance, it was followed up by a motion and Jack sent them a memo that there was a question in the ordinance about the procedures to be implemented. There were two motions. One was to approve and then Mrs. deLeon moved to direct the Manager to come back with a written resolution regarding the operating procedures to implement Ordinance 2007-01. She doesn’t believe he did that. Mr. Cahalan said he asked Chris to give Council some information. At the time it was being discussed, he thinks he indicated there was no written procedure. There is an application which is attached in the memo that Chris did and he asked him to give some background on how this has been operating since the ordinance went into affect in 2000. That’s what the information is he has here. If Council wants that in a form of a resolution, he can do that. Mrs. deLeon said the motion passed 5-0 for a resolution, so since Council sets policy, and that’s by our administrative code, and in order to implement procedure or policy, we need a resolution. She would like to see a written resolution.

**Mr. Horiszny**

- He wanted to report that the Historical Society is working on a promo video to emphasize the Lutz Franklin programs they hope to have and are also working on some bases to put the desks on.

**Jr. Council Member**

- Vanessa said there is going to be an 80’s dance at SV High school on February 9. The admission is \$4.00. It’s open to the community, school age to adult. At the dance there will be dancing competitions, best dressed contests, best hair, a trivia contest, and prizes. All proceed will go to the production of Foot Loose.
- She met with the principal, Mr. Gomboz, and he would like her to report there will be SAT’s for all 11<sup>th</sup> graders in March. There will also be PSSA’s taken. There will be activities for the students when they finish the test. This is to prevent students from leaving the school grounds which was a concern from a number of people in the community.
- The high school finals are now over. She’s happy to say she passed both of her finals. The students also received report cards. They are in their second semester which means all new classes for them.
- She met with the Middle School principal, Mrs. Bernardo, and she would like to report that some of the Middle School classes are working on a project concerning the Thomas Iron Works. They are writing about how they feel what’s going on with this topic. They will

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send their letters to the Township. Mr. Kern said have them send it to Hellertown and copy the Township.

- There was an assembly regarding the recycling program. She was in full costume of a dog and it was very interesting. The contest is over and she will report who won at the next meeting.
- The animal food bank is holding its first shot clinic on Saturday, February 17 from 10 AM to 2 PM at the Trinity Episcopal Church at 44 E. Market Street in Bethlehem. Posters regarding the shot clinic have been placed through Hellertown and the news media has been notified.

**F. SOLICITOR**  
Nothing to report

**G. ENGINEER**  
Nothing to report

**H. PLANNER**  
Nothing to report

**IX. ADJOURNMENT**

**MOTION BY:** Mr. Horiszny moved to adjourn. The time was 12:30 AM.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

Submitted by:

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Mr. Jack Cahalan  
Township Manager

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Glenn Kern  
President of Council