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Next EAC Meeting: April 12, 2011  
Next Zoning Hearing Board Meeting: March 21, 2011  
Next Council Meeting: April 6, 2011  
Next Planning Commission Meeting: March 17, 2011  
Next Park & Rec Meeting: April 4, 2011

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**I. OPENING**

**CALL TO ORDER:** The Special Meeting of Lower Saucon Township Council was called to order on Wednesday, March 16, 2011 at 5:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, President, presiding.

**ROLL CALL:** Present – Glenn Kern, President; Tom Maxfield, Vice President; Priscilla deLeon, Council member; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Linc Treadwell, Township Solicitor; Dan Miller, Township Engineer; Karen Mallo, Township Planner. Sandra Yerger arrived at 5:10 PM. Ron Horiszny arrived at 5:15 PM. Absent: Jr. Council Member, Eubin Hahn.

**PLEDGE OF ALLEGIANCE**

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

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

**II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS**

Mr. Kern said if you are on the agenda, you have Council and Staff's undivided attention and we can discuss the agenda items with you thoroughly. At the conclusion of the discussion, they do open it up to the public for public comment for each individual agenda item. If you do speak, we ask that you use one of the microphones and state your name clearly for the record. We transcribe the minutes verbatim, accurately and fully. If you go on our website, you can see that. We want to make sure we get everyone's name in there and what you've said accurately. If you do want to receive future agendas, there's a sign-up sheet in the back where if you put your email address, we'll email them or mail them to you if you don't have an email address.

**III. PRESENTATION/HEARINGS – None**

**IV. DEVELOPER ITEMS – None**

**V. TOWNSHIP BUSINESS ITEMS**

**A. GEOHERMAL REGULATIONS DISCUSSION**

Mr. Miller said this discussion is taking place because there have been some applicants that want to put vertical wells in carbonate and watershed protection areas, and also by inquiries from the Environmental Advisory Committee. He looked at several of the things that the EAC had requested and provided a memo of August 9, 2010, basically stating what his understanding of the resolution of those questions is to be. From that, one thing that he wanted to talk about was if there was a desire to change the ordinances in light of some of this information. In general, there are greater risks for having vertical geothermal systems in these types of zones, but it's one of those things – do the benefits outweigh the risks. We haven't prepared an ordinance because there's no right way. It's just how do you balance the risks and the benefits.

Mr. Miller said he would go through the August memo. In No. 1a, it's looking at the horizontal separation required for certain features. In a, it refers to the separation from drinking water wells and one of the questions was whether the distance could be reduced and there's really no set standard for how far it needs to be from a well. The difference between a horizontal and a vertical system, obviously a vertical system would have more impact, so the one thing you would have to juggle is what type it is and also, whether or not it's separated from that person's well or somebody

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else's well. If it's their well, they are bringing it upon themselves. Unlike a sewage facility, where there's known contaminants in the system, if a geothermal well is constructed properly, there should be no contaminants and if it's constructed with the right materials, even those contaminants are not a danger.

Mr. Maxfield said you talk about locating the geothermal system close to the septic system, is there a possibility of a malfunctioning septic system dragging down pollution through the geothermal line in any way shape or form or does that open a conduit to drag pollutants down into the ground water? Mr. Miller said any drilling does have that possibility and one thing that should be understood is this would have less chance of pollution than the wells that are permitted to be constructed for water. Back in 2002 or 2005, there were discussions about having the geothermal as well as the well construction standards ordinance and the geothermal got passed, the wells did not. Right now they are governed by a state law on well construction which is pretty much lax in comparison to what the standards are for the Township for what the geothermal was. There's increased danger because they will be drilling deeper and there's increased danger because you will have more holes on the lot as opposed to a water well, but as far as what the minimum performance standards are, they are held to a higher standard for geothermal right now.

Mr. Kern said what is the difference? They have to inject the well with some type of bonding? Mr. Miller said they have to inject it with a cement/clay mix that's intended to prevent the flow down whereas with a water well, if they just want to do the bare minimum, they would drill their hole and probably dig a casing in, but as far as filling in the annular space, which is the distance between the hole they drill and the metal casing, they'd just probably fill that back with the stuff they drilled out, which isn't compacted, which isn't impermeable. There's the potential for improper construction for geothermal, but at least there's a performance standard out there that they have to meet.

Mr. Maxfield said the application that we have before us tonight specifies a 6" drill hole and a 1" pipe. Is that what is recommended for the encasement? Mr. Miller said 6" to 8" for the encasement and a 1" pipe is about normal.

Mrs. deLeon said if somebody has an old well and something fails, and DEP has special regs, and they allow you to put the replacement system closer to your well or your neighbors well if you go offsite. We normally have a legal agreement made up as we want to make sure that the current homeowner as well as the future homeowners would be aware of that. Is there something we could do then like for this particular thing? Mr. Miller said if you were to keep the regulations at the level it's currently at or set it at a level that is stricter and when applicants come in if they want to do something that is not per the ordinance? Mrs. deLeon said she hasn't heard enough to make a decision where the distance is going to be. Right now, what's the regs now for the distance from a well? Mr. Miller said 100'. Mrs. deLeon said the proposal in here, you said it could be less, and what number was that? Mr. Miller said there's no set number. He threw out 25' because he thought it would limit the potential of vibratory impact on the well. It allows some maneuverability for the equipment. There's no set standard for that. Mrs. deLeon said maybe we wouldn't need an agreement, but she just wants to let the other property owner or future property owners know. Mr. Miller said there are agreements that have the maintenance of the geothermal system and we do require that to go from property to property owner. That wasn't asked about and we're not suggesting any changes to that. Mr. Maxfield said if it's going to be a placement change, that's going to have to be an ordinance change. Mr. Miller said yes. Mrs. deLeon said you wouldn't have to need that like the DEP regulations say for a replacements. Mr. Maxfield said does DEP have any regulations about distance from a well? Mr. Miller said they definitely do when it comes to open loop systems and he recommends you don't permit them. He's even more emphatic about it in carbonate geology areas.

Mr. Kern said don't provide open loop, can you describe open loop? Mr. Miller said open loop sucks water out of the ground, either adds heat to it or extracts heat from it, and then dumps the

water back in. Mr. Kern said in the system? Mr. Miller said no, in the system is what you permit. What open loop means is it dumps it into the water table. Because of the amount of water that circulates, he wrote in the memo, 15,000 gallons per day, that's a lot of water. When you have a sinkhole, it's not because you are creating a solution in the bedrock, it's because you are cleaning the dirt that's clogging that. If you are cycling 15,000 gallons a day, that's a lot of cleaning. There's a lot more chance for pollution and that's why they recommend against going with the open loop.

Mr. Maxfield said you are throwing out the 25' setback. Is that in order to make it more permissible, to make it a more useable thing on small lots? Mr. Miller said yes. The frame of reference he was coming from here was, with the exception of questions in regard to whether something was safe, what was the basis for the regulations we have in place? The basis was to be as protective as we thought we could be. He understands the Township wants there to be geothermal systems, but the regulations are currently discouraging the installation of those systems. He came from the frame of reference as to what does he think is the lowest threshold that would still be safe, and that's what he was throwing out there.

**Mrs. Yerger arrived. The time was 5:10 PM**

Mr. Kern asked if there were any other questions? Mr. Miller said is he correct that the Township wants to make it easier to install systems in the Township? Mr. Maxfield said yes, but with consideration given to the delineated watershed areas. He found out from talking with some people who are familiar with the setup in Hellertown, that their draw comes from six springs there. He doesn't know if those are close to each other or spread throughout the watershed protection area. He still is questioning the system within that watershed protection area. He gets the feeling from this that Mr. Miller doesn't think it's that great of a concern because of the pollution risk being less than an actual well. He's hoping that new wells that go into that area are going to be held to a slightly higher standard than maybe we have in the past. He doesn't know if we can do that or not. What is your recommendation or your thoughts about the watershed protection area? Mr. Miller said his thoughts are that you should be protecting every aquifer and the watershed protection area is no different. He understands that there is a concern for that watershed area, but he thinks if there's a concern for this thing to be polluting the ground, then that should be required everywhere. If you want to take a step further to protect that, the best thing would be to pass minimum standards for residential well construction and that has its own problems, but if you were to pass something like that and relax this, at the end of the day, you'd be permitting your residents to do more of what they want to do and at the same time protecting that water better.

**Mr. Horiszny arrived. The time was 5:15 PM.**

Mr. Kern said in what he read, is the major issue in the vertical well the fact that there's potential for ground water to lower the water table? Mr. Miller said the main concern is not so much a substantial drain on the water aquifer; it's more for transmission of some of the aquifer and transmission of pollutants. There's the concern for getting from the surface, whether it be sewage or some type of pollutant runoff, and getting it down to the first aquifer. Nobody wants to drill a well no deeper than they have to; almost everyone uses the first viable aquifer. There's the concern from going from the surface to the viable aquifer and the people surrounding there. There's also the concern of further transmission from that aquifer to potentially a lower aquifer that maybe nobody in that area uses, but feeds somebody miles away that gets drainage from that aquifer. Mr. Kern said if it's constructed properly and the grout is installed properly, that's not an issue, correct? Mr. Miller said yes. Whenever you drill a hole, there's always a risk, but if it's constructed properly, it's relatively safe. By that he means, substantially, hundreds more times safe than drilling a regular well.

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Mr. Maxfield said in theory? Mr. Miller said yes, in theory. Mr. Maxfield said he was reading Mr. Miller's note about the voids. Mr. Miller said that's a particular concern in carbonate geology. When you drill a well, you drill straight down and you might knock some off the edges, but essentially, it's just one solid hole. You need to put casings in where it's sandy to keep it standing up, but effectively, a straight hole. In carbonate geology, there are lots of fissures in the bedrock. One of the concerns is that by drilling into those fissures, you might not be able to get as good a seal on those fissures as you would if you just had solid walls because you might be pumping extra drought in there and instead of filling up, it will shoot into the cracks and it could go on forever, like you are filling a sinkhole.

Mrs. deLeon said she had a well, and something happened to the little donut things that are protecting the casings, so they had to pull it up. It was 450' of black stuff. Now she's comparing this to landfill wells. You have to go down to bedrock to have stability in whatever you are doing. If you don't, then it's just wiggling around in there. Does she understand that you are concerned something is going to happen to the vertical thing? Mr. Miller said yes and no. In Pennsylvania, we go down to bedrock as we have bedrock. In New Jersey, you don't have that. You can have a well of any type without having bedrock. The general practice in Pennsylvania is you drill 10' to 20' and you hit bedrock. You put a casing in, then with water wells, you fill the annular base outside the casings, inside the hole. The inside of the casing you really don't have to fill at all. With geothermal, you absolutely have to fill that because if you don't fill that, you won't have the radiation from the pipes into that air. It has to be solid as air is an insulator. Go to the solids, go to the casings, and then go out past the more solids that were put in there to fill the annular space and then into the surrounding earth. That's only the first part of the well. That's until you get to the depth of the casing. When you go beyond that and you are in the bedrock and below, it's just actually an open hole and with geothermal, you fill that with fill. In geothermal, he could see that they don't necessarily need to have the casing because they will be filling the entirety of the hole.

Mrs. Yerger said should we be considering special considerations in carbonate geology areas? Is that more of a concern than watershed? Mr. Miller said he definitely believes so. There's a practical installation concern for the installation there. He thinks you should have the same high standards for everybody, independent of whether it's the watershed protection or just somebody's general water wells. Mrs. Yerger said we are setting the same high standards, but should there be extra protections in a carbonate geology area? Mr. Miller said he believes so. Mrs. Yerger said she just wanted to clarify that because from what he said, it gets a little scary with carbonate geology.

Mr. Maxfield said our carbonate in most of the Township is considered carbonate bedrock, then there's a different type of rock below that. It's maybe a shale or something like that? Mr. Miller said he's not certain. Mr. Maxfield said years ago when we talked about the landfill, there was some turbulent areas out there where you actually went through the carbonate so far and then you'd hit a fractured shale layer. He's just wondering if there was any information on how thick or generally how thick the carbonate is in this area? Mr. Miller said unfortunately, he cannot say with any certainty what that is. When you are saying turbulent, are you talking about the geologic formation that it's lapping, not that there's turbulent movement down there like gushing underground rivers? Mr. Maxfield said no, it's turbulent because the way it was formed in the water and overlaying of sediments. Mrs. deLeon said the whole landfill is on granite gneiss. DEP regs do not permit a landfill to be in carbonate geology. There are still fractures in the granite gneiss with the drillings of stuff. Mr. Maxfield said they told us at the base of the landfill hill, there was actually granite in nice peaks out in the middle of the plain where the sediments had come in and washed around them. If there were peaks out there, he'd imagine it was underlain by that stuff in a lot of the carbonate areas. Mrs. deLeon said she doesn't recall getting the final report for the landfill, but they are checking to find out where the carbonate areas are and there could be a controversy with the map that we used. If that's happening at the landfill, that could happen at other areas of the Township, so we want to keep in mind what if a person is mapped as living on top of carbonate geology, but they really aren't. We'd have to figure out how to do that. Mr. Miller said he doesn't know if there's a set protocol for that, but he does know they've had people

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come to them and try and argue the uncarbonateness of carbonate geology. Mrs. deLeon said that little band by Applebutter Road, we'll be finding out when the landfill submits all their studies, the results. She asked if we received the reports yet? Mr. Cahalan said the drilling borings? Mrs. deLeon said yes. Mr. Cahalan said no, he hasn't seen anything yet.

Mr. Kern said if someone is drilling down into carbonate and they encounter one of these fissures, what would happen? Mr. Miller said they won't notice it while they are drilling unless it's water, then they'll notice it. If it's dry and an open crack, they won't notice it. They will keep drilling. When they fill it, they will notice they're pumping in way more than they should. One of the strategies that will be handled there is it takes awhile for the bentonite grout to solidify. It might take a couple of days, so what they might do is fill it and let it set and hopefully by doing that, they've made the opening smaller and they come back and they pour it and if it keeps filling, they put a little in and they wait. They come back in a couple of days and they redo it again, and hopefully, it gets solid enough that they can fill up what's surrounding the opening without filling up the entirety of that crevice. Mr. Kern said there's no way to visualize this. It's all just like based on the amount of material they are pumping down there? Mr. Miller said it's usually just the amount of material. Mr. Kern said there are no cameras they can put down there to check it? Mr. Miller said he supposes they could. They do it with sanitary sewers, so it would be a similar type of constrained space. He doesn't think that's normal protocol? Mr. Horiszny said wouldn't you have a casing around it? Mr. Miller said you need to have a casing up until the bedrock. These things will continue getting deeper. They won't stop when they hit the water table. They might keep going deeper. Mr. Horiszny said they still would need casing? Mr. Miller said yes and no. They need a casing for the first part. You dig the casing into the bedrock and once it's set in the bedrock, you don't go any further with your casing. Mr. Maxfield said the thing is you have not only is it open, but it's unsupported by any additional structure. It's just the pipe. If you are down and hit bedrock and a carbonate cave, you've got a raw line hanging in either water or air. Mr. Miller said in theory, it should be bentonite grouted. He was more thinking of holes that are big that will take a lot of grout. Mr. Maxfield said he imagines there are sizeable caverns underneath. They've had sinkholes that open into these enormous big spaces. They fill them with yards and yards of concrete. There are caves there. Mr. Miller said if that's a concern, he doesn't know if looking at that before you start construction is really feasible. There are ways to do it, but it's really cost prohibitive. Mr. Maxfield said how do you? He guesses the best way to avoid that situation, is say no vertical wells in carbonate. Mr. Miller said that's the simplest. Mr. Maxfield said that's the way the ordinance is now. Mr. Miller is looking at options.

Ms. Laura Ray asked what about a drinking well? Mrs. Yerger said isn't that what you alluded to? We may want to consider some minimum standards for wells as well. Mr. Miller said it would seem to him that to put extra restrictions on geothermal while letting wells just be constructed to whatever the drillers standards are, doesn't seem terribly consistent. Mr. Kern said are we over-regulating here since we haven't had an issue ever in the Township and adding cost to, and how much cost are we adding to the homeowner when they have to comply to these new "maybe overzealous" regulations, but as we haven't had a problem yet. Mr. Horiszny said the difference is that you're not putting anything down the water well other than the well. Water is coming out. When you start putting that vertical geothermal system in, you are pumping stuff down there even though you hope it all comes back. That's real dangerous if it doesn't all come back because of a fissure or break or whatever. Could you require a casing in spite of bedrock for any geothermal well? Mr. Miller said you could, but he doesn't think it would be advisable. If you put a casing in, then it becomes much harder to fill outside the casing. The casing is supposed to be a mostly, but not completely impermeable layer. You need to fill both internal and external to the casing. Before you hit bedrock, it's easy enough; you pour it down both sides. Once you've gotten in bedrock, you'd almost be asking them to drill a bigger hole than they need to the entire depth, and it probably wouldn't be beneficial. It would be beneficial to require them to grout it, but allow it to be one solid mass as opposed to two masses separating by a steel casing. Mr. Horiszny said if you fill the holes with bentonite and not a casing, does that have pretty good permanence? Mr. Miller said once it's sets, yes. It becomes strong enough to support itself. Mr. Maxfield said it's very find

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grained, very plastic, so it tends to flow very nicely. Mr. Horiszny said will it continue to be water soluble? Mr. Miller said if there is a really fast current through there, it will wash out at that layer; however, it's strong enough that it won't fall down. For instance, if you have a solution channel, perhaps what you have around your well will wash away, but directly above it, it's own adhesion is going to be strong enough to keep it from falling down and then just overtime it all washing away. It supports itself.

Mrs. deLeon said thinking ahead on the next agenda, somebody mentioned Centre County did it? Mr. Miller said it's one section of Centre County, the southeast section that has specifications. He didn't look at them very thoroughly, but they can look at specific regulations they want to incorporate. He just wanted to explain to you the general risks of going with carbonate and going with watershed protection and seeing what your opinions were on that.

Ms. Laura Ray, resident, said she wanted to comment back to Mr. Horiszny as he had said if you are pumping it down in the vertical and are hoping it comes back, but now you are talking about whether it's open loop versus closed loop. If it's closed loop, it's heat-fused piping which is like the strongest type of bond there can be. It's not like regular metal pipes that rust away or have a bad solder joint and fall apart. Nothing should be getting released down there anyway. If you talked about the chemicals already, but it's already diluted to begin with when you are putting it in there so it's not full strength anyway. She doesn't really see a big danger in the chemical itself. Mr. Kern said explain again what the dangers are? Mr. Miller said the dangers are not the chemicals, provided they are using the chemicals that are prescribed. Pretty much, you can drink this stuff. He wouldn't recommend it. Ms. Ray said if you look on labels, you see it everywhere and in everything now. Mr. Miller said it's put in things you drink. It's put in cosmetics. It's a very common thing. That in itself is not the concern. The concern is you are just creating this channel and making sure the channel is properly sealed and taken care of. There's also the concern if they do something other than what you specify. Ms. Ray said people can do that anyway with their drinking water or anything. Mr. Kern said do we have in our current regulations for geothermal, anything in there about HEA being on site during installation? Mr. Miller said yes, there's that provision. There's not a provision for their professional to be there, and we think that would be a good thing to have as well. We go and document someone was there and see if they are doing something out of the ordinary, but we don't always have Chris Taylor. If you to be to have us there, but we think the owner should have their professional there overseeing it and ahead of time they should know how to proceed in carbonate geology which may have contingencies. Mr. Kern said by professional, what do you mean? Mr. Miller said they should have their geologist there. Ms. Ray said who has a geologist? It's not like something you run out and get. Mr. Miller said they are looking at the difference between the current regulations, which is an outright prohibition and looking at what they might want to require if they were to allow it. The geologist is an additional expense. Ms. Ray said you are talking about any wells now, and going back to that. Mr. Miller said right now a regulation is specified as we are just talking about geothermal. We did talk about how the standards for geothermal are higher than for the standards for other wells. Getting back to your comment on Centre County, he just looked at it again and it reminded him it was not the regulations just for geothermal, that's for all types of wells. It's for water and geothermal. If you wanted to go to the water well route, there's that. There are the draft regulations we put together in 2005. There are all different ways you could proceed with that. You can mix and match from either or other sources. As far as right now, water wells, no real construction standards to speak of. Geothermal, we do have standards.

Ms. Ray said where do we end up with open loop? Mr. Kern said not recommended. Ms. Ray said because of? Mr. Miller said just in general, having another source that would be open is not recommended. Then when you look at the amount of water that is cycling through, even if you don't have a leak, there's the additional concern that particularly in carbonate geology or potentially anywhere, you are recycling about 15,000 gallons per day and that could cause a problem. Particularly in carbonate geology, where you'd be cleaning the rocks and by cleaning the rocks you create the chance for creating a sinkhole. Ms. Ray said it's the same water cycling

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through that is coming out that goes back in. Mr. Miller said what happens is that water is being cycled through the rocks. For instance, they might draw off from 10' down and 10' into the water and dump right into the top of the water, so that water will migrate through the rocks and will effectively clean the rocks in the process. It would be creating a stream, albeit, a small one. Ms. Ray said you think that's the normal standard? She knows her guy who did her system; she was the first system he had to do horizontally. It was challenging. She knows he's done over 150 systems and every system is all open loop. She doesn't know of any problems they are having. She doesn't know any of the details if you talked to them, maybe when you release the water, it is at the bottom, the same place you are drawing it in, it goes back. Mr. Miller said that would be rather difficult. Ms. Ray said she knows they co-locate them within your drinking wells. It's not a separate well. You don't make a drinking well and then make a well for your geothermal. You put it together. She's sure people have their water tested to make sure they aren't stirring up whatever they'd be stirring up in there to ruin their drinking supply. Mr. Horiszny said they just tap off the water they need in the house as it goes by the faucet, an open loop system and water well. Ms. Ray said your water well still works the same, but your geothermal is drawing what it needs and putting back what it doesn't need because you aren't adding any chemicals. You don't use the propylene glycol in those systems. Mr. Miller said generally you have the internal pipe for the uptake and then outside of it you would have the water fall down along the outside of the pipe. Ms. Ray said she's not sure. That's why she wondered if they talked to someone who puts those systems in, they would know what their standards are. Mr. Miller said what he understands is they suck up a center pipe, and then you have the water basically fall down to the top of the water table, and then eventually that migrates down. Ms. Ray said even when it's within a drinking well.

Mr. Maxfield said does anyone have any failure rates that would result in leakage. Not like a system breaking down and having a spill on the surface, but an underground leak. Have we heard of failures in that line? Mr. Miller said from his research, it's virtually non-existent anywhere other than the surface. Unless you have some kind of seismic activity, everything down there is going to be fine. It's going to be human interaction at the surface. Digging a trench and not realizing the system was there, ripping the pipe out, that sort of thing.

Mr. Horiszny said Ms. Ray said most of them were open loop? Ms. Ray said all of them were. Mr. Miller said they are much more efficient. They are cheaper to install and cheaper to operate. Ms. Ray said you can do it on a much smaller piece of property also. Mrs. deLeon asked how many we have in the Township currently? Mr. Cahalan said five or less. Mrs. deLeon said it's almost like we want to encourage this, but yet we only have a handful. Other places are doing them. There's just something missing here. Mr. Miller said Ms. Ray had the benefit of having a large piece of land. Ms. Ray said even then it was hard because her outbuildings, with all the setbacks, it was ridiculous as to the path she had to take to put it in. Mr. Miller said it doesn't say you can't fit it on a small lot, but when you start laying it out horizontally, you can't fit it on a small lot. It's still a constraint when you go vertically. It becomes more of a constraint because in certain areas of the Township, if you look at it, two-thirds of the Township is either in the watershed protection area or carbonate geology, so you are effectively saying two-thirds of the Township cannot have vertical wells. All the hatching on the zoning map are areas where you can't have a vertical well. Mr. Maxfield said he doesn't see that the prohibition is much different than what we do with septic. We have in carbonate areas, the vast majority of these are not in ground systems, they are sand mounds, because it is carbonate geology. That's what HEA's SEO told him. He said they hardly ever put in ground systems in carbonate geology areas. Mr. Miller said that's a true statement, but not because it's carbonate geology. It's because carbonate geology tends to have the soil layers on top of it that would make it necessary to have a sand mound, the limiting zones.

Mr. Kern said following up on Mr. Maxfield's earlier question, are there any statistics on failure rates? Mr. Miller said not that he came across. He can look into that more specifically, but it's such an unconscionable thing for failure to happen on these systems, other than right when it's being installed. Mr. Kern said Ms. Ray told him something he wasn't aware of. They mostly put in open loop.

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Mr. Johnson said he's listening to the engineer describe an open loop well, and he never thought of the idea of using an open loop well for drinking water and for a geothermal system. If you have an open loop well, and you are using it for drinking water and a geothermal system, wouldn't you have to have two separate piping systems going down there? You'd need one for drinking water and one for the open loop geothermal system and two pumps? You'd need one pump for the drinking water and another pump for the open loop geothermal system, and the pump for the open loop geothermal system would have to be running constantly or as long as you wanted to do heat transfer. Mr. Kern said you'd have to get someone here who installs the systems. Mr. Horiszny said if you are running 15,000 gallons a day through a pipe, that's still a lot of gallons. Even at that, you could tap off enough to drink and still let the rest circulate. Mr. Johnson said if you have 15,000 gallons of water circulating in your well, you are going to be washing loose a lot of gravel and sand and things like that and that's going to be circulating up to your drinking water. Even your drinking water pump being down in the same well where that water is moving around and washing up sand, the drinking water is going to be sucking that sand up. He has a filter in his house and he has to change it about once every three months and he doesn't have that problem. All he has is rust from his casing pipe. That sounds pretty complicated to him. What about the well that is filled with bentonite? There you have a hole in the ground, the top part of the whole is lined with bedrock, and then the space between the steel pipe and the original hole in the ground is filled with bentonite. He doesn't know how far they have to go down. How far do they usually go down for one of these wells? Mr. Miller said an application that is before them is for 300'. Mr. Johnson said now you drill your hole 300' through various kinds of rock. Then you put a loop of pipe down in that hole. That's the loop of pipe that your heat exchange water flows through. Then you fill the hole that has the pipe in it with bentonite. If you have a stream flowing through that rock strata, it could wash away the bentonite that surrounds the pipe in a certain section where the water is flowing and then all you'd have between the ground water and the heat exchange pipe would be nothing, but only in that section where the bentonite got washed away. Is he envisioning all of this correctly? Mr. Miller said if the bentonite doesn't harden up, which they'd probably notice if water was flowing through at the time. It's not like the underground water flow is constant. It's not storm dependent. They will see the water when they are doing the construction. If in the event it washes it away and then you would have exposed pipe, because the bentonite is such that it can support itself, through adhesion to the wall, he's not exactly sure how that's an issue. That makes the system more efficient if you have water running by the pipes. Mr. Johnson said what we're talking about here is pollution prevention. We all know it's more efficient to do these things that everyone says is more efficient, but we're worried about pollution prevention. Once the bentonite is hardened up, is it still possible for water to wash it away or is it like concrete and water can't affect it anymore? Mr. Miller said it's not quite concrete, but it's unlikely it's going to wash away substantially. Once it's hardened up, it will probably not wash away.

Mrs. deLeon said if you have this area where this waters running through, and you have this opening coming down and you are pouring bentonite down to get it hardened, how can that harden? Mr. Miller said it wouldn't, and we'd probably have to have a contingency for that. Mrs. deLeon said how would they know? Mr. Miller said they would know while they were drilling it as the stuff they are extracting is going to be sopping wet. Mrs. Yerger said they hit an underground spring with their water well and they knew it right away. They can tell by the pebbles and all the other stuff they pull up too. Mr. Johnson said around here, nobody has trouble finding water? Almost every place you drill a water well, you are going to find water? It would seem to him that anyplace they drill a vertical well for geothermal they are going to hit water. Mr. Miller said provided it goes deeper than the water is. Mr. Johnson said most wells don't have to go down 300'. Mrs. deLeon said when they built her house they had to go 450'. Mrs. Yerger said hers are not that deep.

Mr. Maxfield said most of the areas we are concerned, the carbonate areas, they are about 90' to 150'. To Mr. Johnson's other point about water coming back into the aquifer and stirring things up, if he heard Mr. Miller right, he is saying that it does not pour back into the aquifer or whatever the source is down below, it actually is deposited somewhere near or in the water table, then filters

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down through. Mr. Miller said he's saying there is a potential, albeit small, that the water will wash away the bentonite through the solution channel; however, that is very, very small and not of much significance to the aquifer as a whole. It will not continue to get worse through the slumping of the bentonite above it, provided it hardens and if there's water rushing through; we're going to have other issues with just the feasibility of installing. Mr. Johnson asked Mr. Maxfield if he was talking about an open loop system in his question? Mr. Maxfield said he was talking about the pipe inside the pipe. A smaller intake pipe and then the release pipe surrounding it. The release pipe is not in exactly the same spot where the intake pipe is. Mr. Miller said often it's horizontally the same place. He almost thinks we'd want to require that if it isn't because it would be causing more problems for it to be discharging other than where you are taking it out. Mr. Maxfield said then you are replenishing your 15,000 gallons a day and at least it's getting replenished back into the system. Mr. Miller said that's right. There are systems, and as much as we do not necessarily support the open loop systems in carbonate geology, which are open loop and they draw the ground water and shoot it out to a stream. That would definitely not be something we would support.

Mr. Maxfield said what about systems in carbonate and bringing things up like radioactivity, the odd chemistry methane, any of those kinds of things that may come up with a well? Do we test for any of those things? Mr. Miller said he doesn't believe the Township has anything requiring that. Mr. Maxfield said are installers aware of that sort of thing? He would worry a lot about radon and things like that. Mr. Horiszny said if they are going to drink the water, they are going to test it. Mr. Maxfield said he wouldn't want to be bringing radioactivity into his house. Mr. Miller said if it's a new construction, new house, new wells and new geothermal, they are probably going to want to co-locate as it takes up less ground. It requires one drilling. There are lots of benefits to having it all in one if you are going to go with the open loop. The instance where you'd have it be separate would be more likely where there's a house that has an existing well and they don't want to interrupt their water service during the construction of their new well and they might have a second well for the geothermal.

Mrs. Yerger said we're talking about large amounts of water being drawn down? Mr. Miller said yes. Mrs. Yerger said one of the concerns with the EAC is with just the increase of development and drawdown. We know we seem to have an abundance of water in this area, but the drawdown of the wells. She knows Doylestown Township had wells go dry because of just the sheer volume. Is this going to be an increased problem with the sheer amount of water? She understands it's going back but if you have four houses with geothermal, and depending on how and when they are drawing down, is that potentially a problem? Mr. Miller said the only difference of volume that you'd experience would be the amount of volume, provided the water was being taken from one aquifer and returned to that aquifer and you're not drilling down. It's probably going to be the same aquifer. Assuming that it is the same aquifer, the only extra withdrawal you are going to see is the amount that is circulating through the system that's going to be a small fraction of that 15,000 and you are probably not going to notice it. It's going to be comparable to a day or two, maybe worth of water usage, and that's going to be stuck into the pipes. Mr. Maxfield said that's the system that we do not allow in the Township? Mr. Miller said the open loop system is strictly prohibited in all cases. Mr. Maxfield said there would be no system we'd allow pulling water out of the aquifer unless it's coming out of your tap to fill your system initially? Mr. Miller said that is how it currently is.

Mr. Horiszny said do we say in here that other Townships do prohibit open loop systems? Mr. Miller said other places do prohibit it. It's not that every place prohibits it, but we're not the only ones. Mrs. deLeon said would the LVPC have statistics or know? Mr. Miller said he doesn't know, but he can contact them. Mrs. Yerger said there's some Township in Bucks County, they are looking into them. Ms. Ray said probably if you contact an installer, they can tell you where they have issues.

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Mrs. deLeon said she'd like to know what other Townships do for comparison purposes. We'd have to compare apples to apples and make sure there are carbonate areas. Mrs. Yerger said in Bucks County, there's not a whole lot of carbonate areas.

Mr. Kern said he'd also like to have this discussion with a certified driller/installer of geothermal systems just to get real life feedback as to what's out there in the real world so we can have that perspective. Mr. Horiszny said we do not prohibit water wells in carbonate geology and we do not require testing of the water? Mr. Miller said for a single residence, which is correct. A subdivision that has multiple residences, then they require it. Once it meets certain thresholds and the quantity of wells goes higher, the quantity of water draw goes higher, the thresholds and requirements get stricter. That's for drawdown and water quality and it's all governed by the SALDO. It would not be governed by single resident type regulations.

Mr. Johnson said take for example, a development where they are going to put 50 separate residences in. Would you require water testing then, or would it only be if you had ten residences pulling from the same well that you would require it? Mr. Miller said it has to do with the amount of total draw in the development. It's probably because they are nice, easy numbers. Those are actually the numbers that the regulations say, at ten there's a certain standard, and at 50 there's another standard.

Mr. Maxfield said he would think that anybody buying a pre-existing home would have a water test. In order to get a mortgage on his house, he had to have an inspection and have a water test. Mrs. deLeon said in discussions regarding the landfill, a standard water test is just the parameters. You do a drinking water test and it's very cheap. You think you have safe water and the people out at the landfill were drinking polluted water because they didn't get the right test. Mr. Maxfield said a good water test costs about \$1,000.00 or more. Mrs. deLeon said people don't realize that. If this component isn't in the test, it has to be even a more specialized test.

Mrs. Yerger said one of the other issues that came up and she knows he addressed it was the use of natural ponds. You were not particularly in favor of that. Mr. Miller said there are concerns that would be hard to address. Mr. Kern said use of natural ponds for what? Mr. Miller said one of the popular ways to do geothermal is to throw a loop in the bottom of a pond and then it requires very little installation cost. It's the cost of the pipe and throwing it out there. There's no drilling. The concern being in the winter, you are going to make that water colder and in the summer you are going to make that water hotter. If you have any wildlife and they don't die as a result of that, they might be eating at your pipes. There are some problems with that, particularly given the concern with raising water temperatures, which DEP is very much cracking down on now. Mrs. Yerger said they had talked about it in the EAC and wanted to make sure it was in the record. Mr. Miller said that's even pursued sometimes as not only a closed system, sometimes it's an open loop system where the people will have a filter with the water coming in and you pump it back out. Mr. Horiszny said ponds can be done either way – closed or open? Mr. Miller said not in Lower Saucon, but they could be done that way.

Mrs. deLeon said they were concerned when Conectiv was being built, their release into the creek and the heat in the creek and killing the fish. It makes sense. Ms. Ray said the size of your pond would have a lot to do with it also. She would say if you had a large enough pond, it would be hard to heat it up or cool it down. Mrs. Yerger said depth would have a lot to do with it. Ms. Ray said she doesn't know how many places where that would be an option in the Township. Mr. Miller said that was an issue for the system to operate as they don't want it to be freezing. The best thing is if they have a constant temperature year round. Mr. Maxfield said a geologist said almost every pond around here is man-made, so he would guess most of the ponds around here are shallow. Who's going to dig one deeper than they need to? Mrs. Yerger said there was a huge push years ago from the ag program, and they actually went and installed ponds as they were trying to increase stopovers for birds and wildlife. That's how her parents got their pond.

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Mr. Horiszny said how many gallons are in a one-acre, 10' deep pond? Mr. Miller said it would be 320,000. Mr. Horiszny said 15,000 gallons is going to affect 320,000 big time temperature change? That seems strange to him. Mr. Miller said you are taking it at quite a different temperature and shooting it back. You have to look at the ratios of volume and the ratios of temperature. If the water is 33 degrees and you are shooting in 60 degree water, that will make a difference. Mr. Maxfield said in the summer you have a 50 degree water temperature and you are shooting 40 degrees in to make it 90 degrees. That could heat it up and be like a radiant source. Mr. Miller said he actually said the wrong thing. If it is cold, you'll be making it colder and if it's hot, you'll be making it hotter.

Mr. Johnson said you were talking about heating up a pond. Consider if you have an open loop system and you have a hole in the ground filled with water, you are going to heat that water up a lot faster than you are going to heat a pond up and it will also cool it down a lot faster as you don't have the volume in your well. How does that work? Mr. Miller said the ideal for these systems to work efficiently is to have water, but it's not a requirement. You can just lose it to the rock. Mr. Johnson said he's talking about an open loop system where you need water. Mr. Miller said actually an aquifer can be quite large and be larger than a pond. Mr. Horiszny said remember when we figured out what was in the zinc mine and it was 9 billion gallons of water, so that's a small aquifer. Mr. Johnson said he's thinking about the study that was done by Springtown for their well. They talked about it taking ten years for water to travel from the end of their place where they draw their water down to their well. We're not talking large bodies of water underneath the ground. We're talking about little rivulets, cracks in the rock. In the case of limestone, you might have a large void, but otherwise, he doesn't think you are going to have large voids in this granite rock we have around here. Mr. Horiszny said this world is pretty big and it comes from everywhere. Mr. Johnson said it takes ten years to get from Martin's Lane down to Springtown. Mr. Horiszny said does that matter? Mr. Johnson said yes, we are heating the water up at the rate of 15,000 gallons a day, so you are just re-circulating it. You aren't getting much new water into your well. You are just re-circulating what's in there. Mr. Horiszny said when you say it would take ten years to get back to where it's going, by then the temperatures should be regulating it. Mr. Johnson said what about the water in your well? Suppose in the summertime, your air conditioning, now your dumping heat into that air conditioning system, part of your geothermal system that's above the water. You are dumping heat into the water. It's going down to where the water was maybe 50 degrees. You are going to heat that up rather quickly and your efficiency is going to go down. You no longer have 50 degree water coming up to your heat pump, who knows what the temperature of the water is going down 70 or 80 degrees. Mr. Miller said it has to do with the size of the heat sink. You had talked about how big the pond is and this would be how big the aquifer is. The larger aquifer is not going to experience the more significant temperature. Mr. Johnson said he's saying there isn't a big exchange of water between the aquifer and the well. Mr. Miller said the reason they use water and why it's ideal is the quick heat transfer. They don't have to move as much to transfer as much heat. That water itself will transfer heat to other water, but it will also transfer it to the rock. The rock itself acts as a heat sink and you can have one that doesn't touch water, it just sinks to the ground and is less efficient. It takes more surface area to transfer the same amount of heat. Mr. Johnson said maybe that's why they go 300' to get more surface area in the well. Mr. Miller said yes. Mr. Horiszny said how many degrees come out of each gallon? They may not make a huge difference. A 15,000 gallon running through a system, you don't need many degrees to change a temperature for each gallon of water. He doesn't think if you pull 50 degree water out of the ground, and put it in, if he was at 55 degrees he'd be amazed. It would probably be at 51 degrees. Mr. Johnson said you are saying as water is going in the heat exchanger and out of the heat exchanger, there's not going to be a big difference in temperature. Mr. Horiszny said he thinks it's going to be very small. Mr. Miller said you have a lot more amount of heat stored in a drop of water than you do on an equivalent amount of air. There is a lot more heat condensed in heats than in gases. Mr. Maxfield said if what Mr. Horiszny is saying is true, then it's probably going to be more for a 300' loop going under the ground than it would be for a pond as a pond is going to have a shorter loop even if it loops multiple times in the pond, it's not going to have 300' of opportunity to get rid of some of the heat. He doesn't think a pond would be as

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efficient. Mr. Johnson said if you have a pond, your heat is coming in through the water. If the water is mixing with the pond fast enough to circulate all the water in the pond, you are going to get a good turbulent heat transfer. If you have a big pond, you are going to have a lot of water coming in to keep the water moving. If that doesn't happen, then you just heat by conduction where the heat goes through the water instead of the hot water mixing with the cold water. Heat by conduction, you don't get as good a heat transfer as you do by heat by convection. These are questions for the heat pump engineer. Mr. Miller said it's probably something the Township isn't interested in doing as they aren't interested in open loop in ponds or pond in general.

Mrs. deLeon asked Ms. Ray from the ground level, how deep is her system in your yard? Ms. Ray said it's 8'. Mr. Miller said the documentation they sent said it was going to vary between 4' and 17', so 8' would be close.

Mr. Lenny Szy said something he's noticed the last two days, he's been driving on County Line and Dogwood and almost all the houses, Durham Township, had plastic bags with little bottles in it. There must have been 40 or 50 of them along the entire road. He would assume it's water testing – kits? Each house has it on the mailbox. Mrs. deLeon said it sounds like DEP is testing their water. Mr. Szy said on Wassergass Road from the golf course up to Bergstresser's, the water wells are anywhere from 300' to 1,500' deep. Wassergass is extremely deep.

Attorney Treadwell said he's guessing people want to install vertical systems as they are cheaper to install and more efficient? Mr. Miller said and because they will fit. Attorney Treadwell said because it takes up less area. How much cheaper are they to install and how much more efficient are they? Do we know? That's the benefit to the vertical system that you need to weigh against the harm, whichever the potential environmental effect is, but he didn't hear anybody say how much more expensive the horizontal is towards the vertical or how much more efficient one is compared to the other. Mr. Kern said did Ms. Ray ever get a quote for both? Ms. Ray said she did, but she doesn't remember those numbers. You'd have to get an installer and they can tell you how much more efficient one is. The green builder's expo is this weekend and there will be a lot of installers there.

Mr. Maxfield said Ms. Ray had a problem with the bedding for the horizontal system as it was specified stone. Mr. Miller said basically, what the ordinance specifies, there's one type of bedding they specify which isn't mandatory which we may want to make mandatory. There's another one that says it needs to be a certain type, but it doesn't specify. He understands where the problem was with Ms. Ray's installer and we definitely don't want to have sand as the backfill as sand has voids and thus is an insulator as opposed to other types of solids. We should probably say no particles larger than sand and just something that would keep rocks away from the pipes during installation. Mr. Maxfield said could we specify the same sort of thing that is used to fill the casing, the bentonite since it will be packed into the ground? Mr. Miller said you could do that. He doesn't know if there's as much concern for imperviousness in a horizontal system as you would in a vertical system. Ms. Ray said they used clay and it's the best thing there is. Mr. Miller said bentonite is a specific type of clay. It's the least permeable type of clay. Ms. Ray said it's just regular old stuff you bring in with a dump truck. Mr. Maxfield said would that be a okay material? Mr. Miller said yes, because clay is smaller than silt, which is smaller than sand, and all three of those are fine. It's when you get into bigger aggregate that it's a problem. Ms. Ray said the regulation said put sand in as your bedding, at the bottom. Mr. Miller said he can see how it could be interpreted that way and they can clean up their words that it's clear that nothing larger than sand goes in. Mr. Horiszny said you can't use No. 9 stone or pea gravel, you have to use sand or clay. Ms. Ray said that wouldn't be conducting the heat. Mr. Miller said the bigger the aggregate, the less conducting it is as there's more air; mostly, just because air is an excellent insulator.

Mr. Horiszny said in carbonate geology, which is scarier, an open or closed loop system? Mr. Miller said open loop. It's has the potential to damage to the environment, no question. Attorney Treadwell said if we only allow horizontal now and the Council is considering allowing vertical

and he's hearing no open, but is open a scarier environmental issue than vertical? Obviously open is a problem. Is vertical just a big as a problem? Mr. Miller said he doesn't believe it is. Mr. Maxfield said unless you were using a pond, wouldn't have a horizontal open loop system? Mr. Miller said correct. It would be impossible without a water source.

Mr. Maxfield said as we talk about this later on with a real applicant, you're confident that the recommendations you made in the letter, you said if this was a possibility, you might want to consider these conditions. You think those will handle some of the questions. Mr. Miller said that will address some of the concerns. Those are to make it more likely that it's installed correctly. Whenever you drill a hole, you are increasing the chances of a problem, but this is to mitigate as best as possible.

Mr. Kern said at some point, he would be very interested in having statistics of all the vertical systems that have been installed, whether there's been a failure and the type Mr. Miller is talking about and the concern, and the truly likelihood of that ever happening in the closed vertical. Mr. Miller said are you concerned with the pipe itself? Mr. Kern said the transmission concern which is the only concern. What is the likelihood of that ever happening or the statistics of it having happened? Mr. Miller said he can look into that, but he thinks it's going to be problematic in that you're not going to necessarily know where the contaminant came from and there's the variable on how the well was constructed. How the geothermal wall was constructed? How many geothermal wells were constructed? Whether there were wells that were constructed that actually caused the contamination? Just between all the different standards, you'd have to have a lot of data to be able to break it down into all those different categories to get anything meaningful out of it. Mr. Kern said even a statistic where contamination of some sort happened. How often? Mr. Miller said he will look into that. Mr. Kern said what if it's 99.9995% where it doesn't happen? Mrs. deLeon agreed. Mrs. Yerger said she's open to this, but when you are talking water resources, they are the most precious things we have, so these discussions are really necessary and you can't undo it. Mr. Kern said is a description of a real life example of what has happened that has gone wrong. A documented example of here's what went wrong and here's what happened – documented.

Mrs. deLeon said what Mr. Johnson said, it's okay for the landfill to be polluted on its parcel, but nobody cares about it unless it gets off the parcel. If the landfill owns all these parcels and they are only land filling a portion of it, it's going to take years for that pollution to get going. She cares about it anywhere in the Township. The landfill with their other applications, they have all kinds of ground water maps. Mr. Miller said they need that in order to design.

**B. SOLAR REGULATIONS DISCUSSION**

Ms. Karen Mallo, Boucher & James, said you should have two memos that were sent from her office. The November 22, 2010 memo which was revised on January 11, 2011 and there was a summary memo that went out. The first memo goes through the zoning ordinance amendments that you would need to change in order to put together solar.

Ms. Mallo said on the January 11<sup>th</sup> memo, it summarizes the draft ordinance. Basically, there's two distinct solar energy production uses, one would be an accessory use and one would be a principal use. The accessory use would be permitted by right in all districts and it would be permitted to have solar energy systems that are not the primary use on the property and only providing solar power for the primary use on that property. Where an accessory solar system would be allowed to connect to the grid, they would be allowed to sell back any excess energy to the energy company. They would be required to conform to area and dimensional and height requirements of the zoning district except for those that are permitted on structures in a right-of-way, such as a lamp post of a sign post. The use is going to be considered completely impervious so they are also going to have to meet their impervious requirements.

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Mr. Maxfield said instead of using that as impervious, could they come up with some kind of system where they would have infiltration occurring underneath the solar panels? Ms. Mallo said it could be looked into a little bit more. They are flat and tilt towards the sky, the use itself is impervious. It's not going to make an effect if it's on a roof top as that's already an impervious surface. They can look into that in terms of some other type of infiltration system that would allow the storm water to be collected somehow and be put back. Mr. Maxfield said he was thinking of our solar array right down the road here, it's pretty extensive, mounted on frames on the ground. He could see that instead of having that count against your impervious and use that space underneath it as an infiltration bed where you pump your storm water into that area. Ms. Ray said if it's ground mounted, the pervious part is whatever holds it up and the panel itself isn't doing anything. Ms. Mallo assuming the panels were flat at the highest rate, that's what they were calculating that as. Mr. Maxfield said like a deck. Ms. Mallo said yes, as that water's not going to seep through and when you tilt it up, it could just run off as a sheet flow. Ms. Ray said if you put it on a roof, you wouldn't count it at all? Ms. Mallo said the roof is already impervious, so there's no additional impervious. Ms. Ray said it may have to be worded like that so people understand it. Ms. Mallo said they will look into that a little bit more.

Ms. Mallo said A4, on page 7 of the memo, all components of the accessory solar energy system shall be considered impervious and the impervious surface requirements of the underlying zoning district should be met. They will look into that to see if there are exceptions as to where that might be accepted.

Ms. Mallo said going on with the accessory uses, it's not permitted to display any advertising, except for the manufacturer. It would be okay to use materials, colors and textures that are blending into the existing environment. Homeowner's agreements would not be permitted to limit solar energy systems other than the ordinance. She asked Attorney Treadwell if there was a current legislation to support that? Attorney Treadwell said yes. Ms. Mallo said adjacent property owners do not have to remove existing vegetation, but it would also be on the person installing it so that glare is not going to be onto the adjacent property owners. Installation shall conform to the PUC Code and other applicable federal, state and local legislation; written confirmation and approval from the Public Utility Company. This would require approval by the Zoning Officer, but not requiring site plan approval. That's just for the accessory use.

Ms. Mallo said going onto the principal solar use, this is a principal solar energy production facility. One of the questions they will discuss is how you would like to have that permitted in the Zoning Ordinance. It wouldn't be by right, but it would be either by special exception or a conditional use. That would also determine what board it's going to come before. It's going to come before you or before the Zoning Hearing Board for that final approval of that use. One of the things we'll talk about is permitting it in the RA district. That probably would be the only one. The others it seems pretty cut and dry that it's a good use and a good fit for those districts. They are recommending RA; general business one GB2; light industrial, light manufacturing and office and laboratory districts. They are recommending conditional use approval from Township Council, but again, it's also that option to have it as a special exception. The requirements that would be required, land development approval is required; with the details regarding the components, generating capacity, electrical methods, etc., etc., and the description of all the facilities that are going to be required for that to be on the site plan. Maintenance and operation plans are required to be submitted; proof of notification from the utility company. Facility shall conform to industrial standards. Landowner and facility owner operators should have affidavits. The minimum lot size should be ten (10) acres. Minimum front yard setback would be seventy-five (75) feet from the right-of-way or one hundred (100) feet from where it abuts a residential district or use. Side and rear setbacks fifty (50) feet from any side or rear property line or seventy-five (75) where abutting a residential use or district. All the facility components should be considered impervious and they will look into that to see if it can be varied in any way. The facility and equipment and structures shall be screened from view by a vegetative buffer. From previous discussions, this was changed because there was concern where the buffer could be placed. The way they have worded it is the

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buffer could be placed anywhere on the property so that it screens the use rather than just being placed in a buffer at the property line, that the applicant would have the option to buffer right at the facility itself. Signage being permitted would be an identification sign no larger than 16 square feet, but for the manufacturer, owner, and emergency contact number. The signs comply with the sign ordinance. No artificial lighting except for to meet safety regulations. Electric wiring and cable shall be installed underground. Facilities shall be located to prevent glare towards inhabited buildings, and adjacent street right-of-ways. No facility located within the airport control zone. Facility should be enclosed by a minimum 8' fence with a self-locking gate. Warning signs shall be placed on fences, barriers or systems at the base of all pads of sub-stations. Land development plans shall be required approved by the Fire Department and cooperate with local emergency providers. Another clerical change would be to remove the power generating equipment and take all references to solar out of some of the ordinance sections that currently exist. They would take all the references to solar out and put it into this ordinance.

Ms. Mallo said the issues that would probably need to be discussed are the conditional versus the special exception and what districts you want it allow in, and then any other issues we bring up like the impervious surface.

Mr. Maxfield said for principal use, you said a 10 acre cutoff. How do we apply that to GB1, GB2 as we are permitting that use in areas that probably don't have anywhere near 10 acres. Ms. Mallo said when she was speaking with Ms. Stern Goldstein, they were talking about combination of lots and/or creating a subdivision so that those lots can be created. If the principal use is at the front, then there's all this property in the back that, that use could be allowed over the lot line, where we are talking about drawing the lot lines and the combination of lots to get that 10 acres.

Attorney Treadwell said he's just throwing this out. If the school district wanted to put 600 panels on their property, are we characterizing that as an accessory use or principal use because if he's the school district, he's going to argue they are using the energy generated by 600 panels for the school and he just happens to have some left over that he wants to sell back to the power company. Ms. Mallo said she would think that would be an accessory use. Attorney Treadwell said his question is do we want that to be an accessory use because if you are not going to require a land development plan for 600 panels because the school district is allowed to call it an accessory use, there are some issues there. For instance, what if the landfill wants to do it? If they want to put 600 panels on part of the landfill that has closed and gone through all their closure regulations, maybe we should look at when we're defining accessory versus principal, not only whether you are using it for your own purposes versus just solely producing it to sell, but also how large it is. Mrs. deLeon said a shopping center could want them also. Ms. Mallo said a threshold where that would kick into being a principal use. Attorney Treadwell said he would think that Joe Smith who wants to put a panel up in his front or back yard to offset his energy cost is clearly accessory, but if you are putting 600 panels on a 100 acre property, that doesn't seem to be accessory to him. Mr. Horiszny said if we said an accessory use over so many square feet, it would have to have a site plan. Attorney Treadwell said right, or we reword the definition of accessory and principal and make a cutoff point on maybe the amount of excess power you are selling back to the grid. If the school district and you need x number of kilowatts, and you can get that x number of kilowatts for your school district use by installing 100 panels, but you want to install 600 as you can make some money on it, then maybe that should be a principal use. Mr. Horiszny said what would you do about excess power? Attorney Treadwell said he's just throwing out ideas, he doesn't know where the cutoff would be. Mr. Horiszny said square footage. Attorney Treadwell said that might be it. Mrs. deLeon said there has to be some way to measure it. Mr. Horiszny said the excess power at the school would not be as much as the excess power at the landfill. Mr. Maxfield said we could put in a maximum number of square footage for the Zoning Ordinance and then if someone went above that, they could go for a variance instead of changing it to a principal use. Then as a condition, we could say they need a site plan. Attorney Treadwell said we would say an accessory use is as it's worded now, up to x number of square feet or whatever the reasonable number is. Mrs. Yerger said that's a good idea. Ms. Ray said she doesn't think you'd want to

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make it a variance because legally they'd never have justification for their variance, or maybe a special exception. Ms. Mallo said you could make it a condition of the conditional use. If it's conditional use, it would be a condition, and then they would need relief from the conditional use. Attorney Treadwell said the accessory is permitted everywhere, so you wouldn't have that issue come up. The only way you could impose a condition is if it's already been characterized as a principal use and it's going through the conditional use and/or special exception process. It's that threshold when the property owner comes into the Zoning Officer and says this is what he wants to do. From a practical standpoint, your accessory and your permitted everywhere or your principal and you have to go through a couple more steps.

Ms. Ray said she has questions on the accessory use. She knows on the principal use you have different setbacks and guidelines. She didn't hear any on the accessory use. Ms. Mallo said they have to be ones that are currently set for that zoning district. It would be just as if an accessory use has to be setback 10' from the property line. It would be the same for that zoning district. Ms. Ray said you mentioned screening on the principal use, not that we are going to have that many farms going up here, but what would they be screening? That nobody would see it? Mr. Maxfield said those can set off quite a bit of glare. Ms. Ray said what are you screening than just against the glare of so no one can see any of your panels? Ms. Mallo said the wording is so that it's not visible from any property line. Ms. Ray said if you are putting up screening, you are probably ruining your solar. Mr. Maxfield said you could have one up on Meadows Road and it could reflect in your neighbor's house. You'd probably want sort of screening. Ms. Ray said you can't have walls in front of your panels. Ms. Mallo said it says buffers may be provided anywhere between the facility and the property boundary so as not to block direct sunlight to the solar panels provided that the buffer effectively blocks the facility from view of adjacent properties and streets or existing vegetation blocks the view of the facility from neighboring properties and streets, this requirement shall not be applicable. The vegetated buffer, existing vegetation shall be maintained as long as the facility exists on the subject property.

Mrs. Yerger said what if they want to mount one on the roof? Ms. Mallo said this is only for the principal. Attorney Treadwell said principal big solar type project, which is the problem all the northern municipalities are having when the school districts want to put them in and all the neighbors say they don't want to look at them.

Ms. Ray said she thought she also recalled in our existing regs, with the setbacks, they are not allowed in your front yard and she had a problem with that. There's definitely houses on large properties that are set way back and maybe there open area is their front yard, so we're saying you can't have solar because it's your front yard. Attorney Treadwell said the difference is the required front yard and the required front yard is defined in the Zoning Ordinance as 20' back from the right-of-way line. Mrs. Yerger said the way she understands it is that it's not prohibiting front yard. It's according to the setbacks. Ms. Mallo said she will look into the wording.

Mr. Maxfield said we are going to have a little bit more open with placement of these because of the nature of solar. Ms. Ray said you have to place it to get the right sun. Mr. Maxfield said if someone wanted to put up a wind mill, it's site specific, especially on a smaller property.

Mr. Johnson said he wanted to discuss the impervious requirement. It would seem to him that solar panels mounted on stands on the ground would be essentially causing impervious. Suppose you have an umbrella and you stand there with the umbrella. You are shielding the ground underneath the ground from absorbing the water. The water runs off on to the ground around it. That's the same thing as a macadam driveway. The water runs off the macadam and goes on the side. You are saying a macadam driveway is impervious. It would seem that solar panels would be the same thing as the umbrella. It would prevent the water from going down on the ground underneath the solar panel. Possibly if you raised the solar panel off the ground high enough so the rain could come in from the side, then you could have a percentage, like 50% impervious instead of 100%. That might be something for the Engineer to look in to. Mr. Miller said we actually have not, for

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this, per se, but we've looked at this because we disagree with the LVPC's take as Travis Bartholomew believes this is not impervious and we believe it is somewhere between bare earth and impervious. We don't know where. There have not been any real studies on there. Our take is called impervious until we have some better science to go by.

Mr. Johnson said almost everybody who installs solar doesn't use all the power that the solar panels make. Almost everyone sells some back to the electric utility company. That's what you have to decide on like Mr. Horiszny said. Do it on a square foot basis, but the thing with the square foot basis, a company or a school district might need a lot of square feet to supply the power for their own use. It's kind of hard to say as you can't come up with just a simple number. You sell this much back to the power company and all of a sudden you are primary because the school district might have a lot to sell back to the power company. It's going to be a tough thing to come up with a number for that.

Mr. Maxfield said square footage may be a little weird when you are talking about some of the newer technologies of chips or solar cells within asphalt shingles for your roof. It's not going to use the entire space of the shingle. We'll have to think that one through a little bit more.

Attorney Treadwell said remember that distinction we're trying to make is at what point does it become more than just the Zoning Officer issuing a permit and saying go ahead. At what point do you have to see it or does a body, whether it's Council or the ZHB, see it to look at it and make sure it's not going to have a negative effect on the neighborhood or surrounding property owners and give either the Zoning Hearing Board or Council a chance to impose certain conditions if it's a bigger project.

Mrs. deLeon said the private homeowner has the option of installing this system, but you don't want it too overwhelming. She's not against selling it to the power company as you don't want to waste it, so the homeowner should be allowed to do it, but you don't want them to build something bigger so they are making it a business. Attorney Treadwell said he would think there would be a tendency for some homeowners to build a lot bigger than they actually need because of the potential of selling it back. The question is how far do you let that go before your negatively affecting the neighbor because one guy wants to sell his power back to the grid.

Mr. Johnson said maybe you could do it on a percentage basis. If a homeowner is generating more than 20% more than what he uses, or 100% more than what he's using, then that would be considered that he's doing it to sell. Mrs. Yerger said you probably wouldn't know that until after the fact. Mr. Johnson said they can calculate it; it's the same thing with the school district. They can calculate how much the school district is going to use, and if they are putting in 20% to 40% more panels than they use, then they are not really doing it for themselves.

Ms. Mallo said she wanted to comment on Ms. Ray's comment. The way it is written is it's ground mounted systems may be located no closer than the front setback of the house or primary building from the street line. In no case however shall the ground mounted system be located within the front yard as defined in the zoning ordinance. You just have that required front yard that it cannot be located in, then it can be located from that point. Ms. Ray said she wasn't finding front yard in the definitions on the online code.

Ms. Mallo said any direction on the special exception versus conditional use? Mr. Maxfield said he's going to vote on conditional use. Ms. Mallo said okay, she will take these recommendations back to Ms. Stern Goldstein and they will work on some of these thresholds.

Mr. Maxfield said he was thinking about the square footage. Maybe what they should do is try and make it as simple as possible. If there are new things we need to consider, just deal with that particular application and stick with the square footage. Does that sound reasonable? Mr. Horiszny said for now, but Mr. Johnson's suggestion about percentage over need is also an

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accurate thing to do and utilize. Mr. Maxfield said if we can get that info and keep up with that info. Mr. Horiszny said that may be tough.

**MOTION BY:** Mr. Horiszny moved for adjournment of the Special Meeting. The time was 6:53 PM.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

Submitted by:

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Jack Cahalan  
Township Manager

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Glenn Kern  
President of Council

**I. OPENING**

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Announcement of Executive Session (if applicable)

**II. PUBLIC COMMENT PROCEDURE**

**III. PRESENTATIONS/HEARINGS**

**IV. DEVELOPER ITEMS**

- A. Clair/Chiapella – Waiver Request of Geothermal Regulations to Install a Vertical System
- B. Creekside Marketplace – Route 412 – Release of Maintenance

**V. TOWNSHIP BUSINESS ITEMS**

- A. Zoning Hearing Board Variances
  - 1. Donald Metzger – Mike Kiefer – 4310 Lower Saucon Road – Appeal of Notice of Violation
  - 2. Spring Valley Sportsman’s Club – Liberty Towers, LLC – Green Acres Drive – Variance Request for Relief of Required Setback for Commercial Communications Tower
- B. Draft Ordinance for EIT Referendum
- C. Polk Valley Road (NorCar) Property – Subdivision Options
- D. Review of Revisions to Park Maintenance Policy
- E. Lawn Mowing & Lawn Care (Maintenance) Bid Awards
- F. Resolution #34-2011 – Update to Emergency Operations Plan
- G. Approval of Use of Polk Valley Park for LAX Day on April 30, 2011
- H. Authorize Advertisement of Bid for Plantings at Kingston Park

**VI. MISCELLANEOUS BUSINESS ITEMS**

- A. Approval of March 2, 2011 Minutes
- B. Approval of February 2011 Financial Reports

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

**VIII. COUNCIL & STAFF REPORTS**

- A. Township Manager
- B. Council/Jr. Council Member
- C. Solicitor
- D. Engineer
- E. Planner

**IX. ADJOURNMENT**

Next EAC Meeting: April 12, 2011  
Next Zoning Hearing Board Meeting: March 21, 2011  
Next Council Meeting: April 6, 2011  
Next Planning Commission Meeting: March 17, 2011  
Next Park & Rec Meeting: April 4, 2011

**I. OPENING**

**CALL TO ORDER:** The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, March 16, 2011 at 7:01 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, President, presiding.

**ROLL CALL:** Present – Glenn Kern, President; Tom Maxfield, Vice President; Priscilla deLeon, Sandra Yerger and Ron Horiszny, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Linc Treadwell, Township Solicitor; Dan Miller, Township Engineer; Karen Mallo, Township Planner. Absent: Jr. Council Member, Eubin Hahn.

**PLEDGE OF ALLEGIANCE**

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

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

**II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS**

Mr. Kern said if you are on the agenda, you have Council and Staff's undivided attention and we can discuss the agenda items with you thoroughly. At the conclusion of the discussion, they do open it up to the public for public comment for each individual agenda item. If you do speak, we ask that you use one of the microphones and state your name clearly for the record. We transcribe the minutes verbatim, accurately and fully. If you go on our website, you can see that. We want to make sure we get everyone's name in there and what you've said accurately. If you do want to receive future agendas, there's a sign-up sheet in the back where if you put your email address, we'll email them or mail them to you if you don't have an email address.

**III. PRESENTATION/HEARINGS – None**

**IV. DEVELOPER ITEMS**

**A. CLAIR/CHIAPELLA – WAIVER REQUEST OF GEOTHERMAL REGULATIONS TO INSTALL A VERTICAL SYSTEM**

Mr. Kern said this agenda item will be tabled as the Chiapella's will not be coming this evening.

**MOTION BY:** Mrs. Yerger moved to table the Chiapella waiver request.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**B. CREEKSIDE MARKETPLACE – ROUTE 412 – RELEASE OF MAINTENANCE**

Mr. Kern said the developer is requesting to be released from their maintenance period as all the improvements have been inspected and have found to be complete.

Mrs. Yerger asked if the retention basin was now in compliance? Ms. Mallo said yes. On June 10, 2010, they issued the letter that said it was okay.

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

**MOTION BY:** Mr. Maxfield moved for approval for the Release of Maintenance – Creekside Marketplace – Route 412.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**V. TOWNSHIP BUSINESS ITEMS**

**A. ZONING HEARING BOARD**

**1. DONALD METZGER – MIKE KIEFER – 4310 LOWER SAUCON ROAD –  
APPEAL OF NOTICE OF VIOLATION**

Mr. Kern said the applicant has appealed the Zoning Officer's January 2, 2011 Notice of Violation (NOV) which states the applicant did not obtain Site Plan approval and that the applicant is operating a nursery use without first obtaining a zoning permit or certificate of occupancy.

Mr. Craig Edwards, Counsel for Donald Metzger was present. He's here with Mike Kiefer as well.

Mr. Kiefer said Brian Monahan had another engagement. What he is asking is that he really doesn't know why he needs a permit. For 23 years, he's never needed a permit in this Township with four different locations in Lower Saucon. He's always been in the nursery business and never had an issue with it. He doesn't know why nurseries are excluded as an agricultural use. It shouldn't be. If he were to grow corn, beans, or anything else, he wouldn't need a permit in this Township. Why are you excluding nursery and why is it now an issue after 23 years of doing the same thing? That's his argument. He wants the zoning rules and regulation to be reviewed. He would like to farm his neighbor's land and move on. What this does, the way you have the zoning set up, it restricts him from doing that and from expanding. It hurts the entire community because there are people's lands that could be farmed and it could be made productive. They could use that money to pay their taxes. There are some elderly people in the community that they do that for them. They pay their taxes. All his immediate neighbors are here this evening. They will tell you that no one that adjoins his property is opposed to what he is doing. He's taken pictures of the house. He's taken a really horrible looking dilapidated 200 year house and made it into a beautiful house. They'd like to continue doing it. They stopped as they are not going to put any more money into a piece of property they can't farm or they have to fight to farm. That's where they stand.

Mr. Kiefer said his neighbors can tell you they are not opposed to it. He doesn't know what the issue is all of a sudden. The only thing he can think of is he didn't have an occupancy permit and they fought over that a little bit. The Township took him to court and he won, and maybe the Township is upset about that. He asked Attorney Treadwell what is the issue here? Explain it to him? Attorney Treadwell said this has been going on for a long time. It's been explained to Mr. Kiefer. It's been explained to Mr. Monahan on numerous occasions and the issue is the use that you are conducting on that property is a permitted use. Nobody said you can't conduct that use. The Zoning Officer said you needed a permit and you needed a site plan so you could show to the Township what the use is you are conducting on that property. You, from day one, have refused to do that. Mr. Kiefer said it's an agricultural use and he shouldn't need that. By making him do that, every time he wants to expand, if he wants to farm Mr. Pichel's or Mr. McGovern's property, or any other adjoining neighbors, as he's in a rural area, it is not financially

feasible to do plot plans on every piece of land he wants to farm. That's why it should be a permitted use. Any other Township, and he gave you letters, from Nazareth, Springfield, their officials, and it goes on and on, they are all in the nursery business and all sit on Council somewhere, and they've explained their Township doesn't have this law. He said this is the best thing for the community. Attorney Treadwell said what you are doing here tonight then is asking this Council to change its zoning ordinance? Mr. Kiefer said yes, and to show that he's got a plot plan, and he will give it to you, but he obviously doesn't want a permit. He doesn't want permission to farm his agricultural piece of land. That does not make sense to him. Attorney Treadwell, said as in the past, there's a difference of opinion here between what you term as farming and what the Township administration has categorized as a nursery use. It's a business. You sell products from that property. Mr. Kiefer said what about growing corn, beans or hay? The only reason Mr. Garges could give him that would exclude him is because the normal farmer only works twice a year in the spring to plant and in the summer to harvest. He said he wishes the Pichel's were here yet, because they'd be very upset if you told them they only worked twice a year. He works all summer. The truth of it is he can only dig trees in the Spring and he can only plant and dig in the Fall, but throughout the year, his land is his silage. As a farmer who grows corn will put it in a silo; a guy that grows hay will put it in a barn; and all year round, you market those things. You need trucks to do it. His trucks run all year round marketing what he has in his silage, his storage, as every other farm entity. He's no different, in any way. Your definition in the zoning book of farming is planting things in rows and harvesting them. If you take one of the aerial pictures you have of his property, you will see he planted things in rows and he harvests them. That's basically what he wants. You asked for a plot plan and here's a plot plan. The permit issue slows down the process, and in an economy like this, if somebody says go ahead and plant trees on my property, he has a window of three years to plant something and harvest it. If he spends the time going back and forth doing permitting, doing plot plans, surveying land, and things like that, he loses the window and the economy changes. An architect draws in one kind of tree which is hot for three years. If he's a year behind, he just grew 1,000 trees that can't be marketed. If people need soybeans right now to feed the world, that's what they are going to plant. If they want to grow corn to make ethyl alcohol as that brings more money, they need to plant that then and right away as does he. That's why there is no permitting in agricultural so that things can move forward. That's why his trucks are the third of a price to register with a farm tag. When you told him he had to get all his agricultural commercial vehicles off his property, he has no commercial vehicles. He has all agricultural vehicles. He has nine farm vehicles, and every one of them has a permit where he had to apply and show his tax returns. He had to prove he was a farmer to the State to get that break. It's because the State wants him to farm because he is a farmer. It's an ag use or he wouldn't have gotten the tags for his trucks. He can only haul agricultural goods. He hauls their trees, nursery stock, and hay for other farmers. By stopping him, you don't just affect him; you affect a lot of other people in the community.

Mr. Maxfield said he doesn't think anybody is disputing you are a farmer. What they are disputing is the use you've chosen to do is not an agricultural use. It is listed under our ordinance as something else. You claimed people from other Townships and people who sat on boards support you. We have multiple pages of non-compliance from you, not just from the use, but from building permits to occupancy permits to having letters from other Townships denying you a use in that Township. This is a history of non-compliance. You don't want to get a permit for anything. You don't feel that you need to obey the rules of this Township. He's going to insist you do obey the rules of this Township. Mr. Kiefer said that's been his argument from the beginning. It's been a personal thing and had nothing to do with agricultural use. You just stated it was. How many times have you ever won when you fought him? Never. You've accused him of things. You've fought him and you never, ever got a dime out of him ever.

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Mr. Horiszny said you are violating the law. Mr. Kiefer said if he was violating the law, he thinks he would have paid a fine. Mr. Kiefer said obviously the Judge has said no, Mr. Kiefer hasn't violated the law. Attorney Treadwell said let's get back to the issue at hand. You disagree with the way the Township zoning ordinance is written. This is the correct body if you want to make your case, which you just have, as to why they should change the zoning ordinance. Where you are going on Monday night is the Zoning Hearing Board. That is where you can make your argument about why it is unfair. Why you've been treated unfairly. Why you think the Township is picking on you and all those other arguments. This Council can't do anything about what's going to happen on Monday night. The Zoning Hearing Board is a separate body. They make their own determination. You will be there with whatever Counsel you choose to have present and the Township will be there with their Counsel and you can make make those arguments to the Zoning Hearing Board and they will make their decision.

Mr. Maxfield said let me be clear about the personal issue. He gets one vote up here out of five. There are four other people who make their own decision. That is his decision. It is not anything personal against Mr. Kiefer. He sees people who come up here all the time who do obey the ordinances and come and go through the proper channels, but we have a list of things here where you've never obeyed the law. Maybe that is an attitude problem. Mr. Kiefer said he's defending his personal rights of personal property use. You are trying to control things he does and he stands up for himself. That doesn't mean that he's a bad person.

Attorney Edwards said he's not completely familiar with this case, but if you are claiming he has multiple violations, writing a violation is one thing, has there been instances where he's paid the fine and been convicted of what he's accused of? Accusations he could throw them out often, but the question is, if you are going to raise that issue, do you have a record where he has paid fines because he has violated the ordinance? Does that exist? Mr. Maxfield said we have a record of contact after contact, and non-contact back from Mr. Kiefer, until the point where we were very lenient and it finally resulted in Mr. Kiefer having to go to court. We're talking about call after call; letter after letter. Letters on the door; cease and desist orders, all of which was ignored. That's not somebody who wants to cooperate and wants to do the right thing in the Township.

Attorney Treadwell said let's get back to what this issue is. Either Mr. Kiefer is operating a nursery in which he needs to file a site plan and get a permit or he isn't. This board isn't going to make that determination. The Zoning Hearing Board will make that determination. Attorney Edwards said his understanding is he's in front of this board to ask for this board's support so he can make an argument at the Zoning Hearing Board and he's looking for some empathy for his situation before this board that he's got financial issues. He's got issues related to the Township. He's got issues related to his use in front of the State. He's asking for your understanding that if this issue goes beyond the Zoning Hearing Board, which it inevitably will or if the Zoning Hearing Board turns him down for whatever reason, he doesn't have the support of the board or because they make their own determination, he's going to take it beyond that point. He would assume, based on his argument here today, and based on what he sees from other Township's and from his own Township as well, it seems that there may be a divergence between how this particular Township looks at the ordinance with the nursery use and how other Townships in the State of Pennsylvania look at it. The question will come, is he being treated differently than the rest of the residents in the State of Pennsylvania? Is your ordinance unfair to him as a business owner and is he being treated differently as every other farmer in your Township? He's asking you as a board to consider his argument and not to raise any personal issues if he's violated any rules in the past, whether you think he has or hasn't, but going forward, is he making a logical argument that his use should not require a permit because it is a farming use and his livelihood and viability depends upon it, and to ask him

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to come in with a plot plan every time he needs to make a change, kills his business and kills his use. He would ask for a substantive discussion maybe on that particular issue.

Mr. Kern said it is interesting because we are being asked to ignore all of the alleged violations, just ignore and address what his attorney is saying. Attorney Edwards said that's not relevant. He can't tell you what to do. Mr. Kern said he's going to do that. He's going to ignore that and address the issue at hand. We're being asked to ignore all of that and just address the issue at hand. Attorney Treadwell said the question is Mr. Kiefer received a notice of violation from the Township for operating a nursery use without a permit to do so, and without filing a site plan. Mr. Kern said our current ordinance states that nursery is not an approved use in that zoning district? Attorney Treadwell said it's a permitted use if you get a permit; and Mr. Kiefer doesn't want to get a permit.

Mr. Kiefer said you don't recognize him as an agricultural use, that's his issue. If you don't recognize him as that, he gets taxed differently on the out buildings. He no longer can submit an application to the State to get a farm tag because he doesn't have an agricultural use as the Township is fighting him. It costs him money. He loses rights as a farmer. Mr. Kern said what is your issue about getting a permit? Lower Saucon is a zoned community. Mr. Kiefer said if he was growing corn and beans, does he need a permit? No. That's his argument. You are being prejudiced to his kind of farming, to the nursery business. You slow down the expansion of his nursery business. Every time he met with Chris Garges, and one of the reasons he ignores and pushes it to the end, and what's hampering his business is all these rules and regulations you have. Years ago he used to be able to speak to Chris Garges and they could work things out.

Mr. Kiefer said if he's growing corn and beans, he can grow it right up to the edge of the road. He can block site triangles. He has no setbacks. All of a sudden in the nursery business, he's 30' back. If you look at his piece of land, it's a long narrow piece of land. He sets back 30' feet. It's no longer worth farming. Mr. Kern said Mr. Kiefer wants the nursery use to be included with agricultural use, and we're separating it. Attorney Treadwell said if you want to change your zoning ordinance and say a nursery is an agricultural use and doesn't require a site plan nor does it require a permit, then you can do that. The way it's written now, Mr. Kiefer is a nursery and he needs a site plan and he needs a permit. Mr. Kern said that's something they aren't prepared to answer tonight as that's going to require some research to see what other communities are doing and whether or not it really should be agricultural. Mr. Kiefer said this is what his argument has been since the beginning. He brought letters to Attorney Treadwell and he said he didn't care what the other Township's do, did you not say that? Attorney Treadwell said he said to Mr. Kiefer, this is what this Township's zoning ordinance says. From the standpoint of you are claiming that a nursery in whatever Township you are talking about is an agricultural use, no, he doesn't care. This Township's regulations say something different. If this Council wants to change its regulations, then it's their prerogative.

Mr. Kiefer said he expressed this. This isn't the first time he came up with what he's trying to say and it should have been resolved a while ago or at least moved forward in the right direction. Attorney Treadwell said it can't be resolved the way the ordinance is written now. Mr. Kiefer said exactly. Attorney Treadwell said this is the first time you brought up this request to this Council asking them to change their regulations. The way their regulations exist now you are a nursery and you require a permit and a site plan.

Ms. Mallo said she wants to quote from the zoning ordinance where the issue might be lying. Under rural agricultural district, the permitted uses says "a. all following uses require site plan approval in accordance with Section 181.02, agricultural uses. General agricultural uses including animal husbandry and greenhouses, except as listed in b1. 2. Commercial uses, craft shop, day camp and nursery. It's considered a commercial use

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under permitted uses". She will skip forward to what does not require a site plan. It says "general agricultural uses which is growing crops, except forestry, and excluding animal husbandry and greenhouses". It's the growing of crops that does not require the site plan. That might just provide some more information. Mr. Maxfield said its food. Ms. Mallo said the definition of crops is not defined in the ordinance. Mr. Kiefer said it's defined as planting crops and agricultural goods in rows and harvesting it and that's exactly what he does. He plants things in rows and then he harvests it.

Mrs. Yerger said what you are telling us that all the trees at your nursery are all grown there. You dig them up and then transport them to wherever you have sold them. You do not sell any trees that were grown elsewhere and then sell them from your location which would be more of a commercial retail use. You grow, like a farmer, everything you sell. Mr. Kiefer said yes, he contract digs for other nurseries. He owns other nurseries. Mrs. Yerger said why don't you sell right from those nurseries? Mr. Kiefer said he does. Mrs. Yerger said what you are telling her is on this plot of land, every tree that is extracted from that property and sold is grown on that property. Mr. Kiefer said it grew, nobody grows any agricultural business from a seed. You get all your nursery stock from Oregon. It all has been there for at least a growing season. Attorney Treadwell said do you dig trees from any other properties and bring them in and store them, whether it's in the ground or above ground, for a growing season, and then sell them? Mr. Kiefer said yes, every nursery does that. There is not a nursery in the world that grows a tree from a seed. There are guys that grow trees from a seed and then they sell it to other nurseries to plant it in the ground. 90% of the trees that are grown come from Oregon and then it gets planted. Attorney Edwards said he is asking you if you have a facility there that has commercial traffic? Individuals that stop in and they look at a potted plant or they buy a Christmas tree? Mrs. Yerger said she's asking whether he wants to be an agricultural use. Farmers go out, and she understands you can't plant seeds; but she also is very familiar with other nurseries in this area that plant them and leave them in the ground until they are mature enough to sell to wherever they are retailing them or wholesaling them, whatever they do. They plant hundreds of acres. Bucks County is known for this. Her question is if you are in the business of just rearranging trees and just growing a few here, that sort of changes the nature of exactly what your business is. It's not a judgment. Then you've got nurseries that bring everything in pots. The definition of a nursery is a broad spectrum. She thinks, in her opinion, that's where their caution came in as a nursery can be somebody who brings in everything in 6", 8" or 12" pots, and does exactly what he just said, sells to commercial customers. Mr. Kiefer said he grows nothing in a pot. He gets nothing in pots. Every single tree on his property, he has dug with his machine and his crew. He can say he has harvested it. Mrs. Yerger said you have no trees sitting around from other locations that are above ground in balls? Mr. Kiefer said most all of his trees are in balls. He has 90" and 80" spades. He has 40" spade and it's probably the smallest spade he has. That's a 4" caliper tree which is basically the smallest tree he markets. He doesn't get trees that are whips. He starts them out at 2.5" or 4" caliper, and then he puts them in the ground. You are talking about Feeney's or Kohls in Bucks County, he's a step higher than them in size. He's not taking a tiny whip and planting it like you typically would think. He's taking a bigger tree because his market is for bigger trees. He has other nurseries, where he chisels, and plows in rows like Feeney's. When that tree gets to a certain size, then he takes it from that nursery to his other nursery where it grows and it's a staging area. It's the same exact thing where Feeney's gets their trees. He simply gets his trees from the other nursery and they get bigger. You got 8" trees from him, that's where they came from. He's not going to live 150 years old, so he can't start at a whip and wait for the tree to get three or four cash crops when they are 8" caliper trees. He has to get them when they are bigger.

Attorney Treadwell said from the administration's perspective, that's where the difference comes in and that's why the administration saw it as different than your farmer who plants corn and harvests corn every year, which may be a purely agricultural growing operation as

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opposed to what the administration believes Mr. Kiefer does, which is sometimes he brings in some pretty big trees and stores them for awhile until he sells them, which makes it a nursery, which means you need a permit and you need a site plan. Mr. Kiefer said not if they are in the ground growing. Either they are growing or they are dead. He's growing trees. There's nothing above ground except what they staged and are selling this year.

Attorney Edwards said is it the perspective of the board whether it's a nursery or not a nursery depends on the size of the tree? Mrs. Yerger said no. Attorney Edwards said if he brings in 2" caliper trees, plants them in row. If he does it in the fall, in the spring, he takes the same trees that have now grown to 2.5" and he takes them out and delivers them to different areas, whether it be 20 or 50 at a time, how are you defining that? Mr. Horiszny said as buying and selling. Mr. Kiefer said a farmer takes a tomato plant. He buys it in a plug sheet, little tiny 50 to 60 plug sheets at a time. That was started and grown somewhere else. He takes that tomato plant and puts it in the ground. What's the difference? He's selling tomatoes or tomato plants. Mr. Horiszny said a tree and a tomato plant are different. Mr. Kiefer said no it's not.

Mrs. Yerger said what is the cost of the permit in question? You have cited this is as a financial constraint. Mr. Garges said the permit cost itself is pretty inexpensive. The site plan is a plan that would have to be prepared by an engineer and reviewed by our professional consultants. The site plan would address things like the commercial aspect of the nursery, parking, buffers, setbacks and that type of thing. That's what the site plan requirement is there for that for the type of use that's defined in the zoning ordinance and would have the protections against the adjoining property owners and meet all the ordinance criteria for parking, employees, and that type of thing.

Mrs. Yerger said he's offering us a site plan but does not want to pay for the permit. Mr. Kiefer said he'll pay for the permit. That's not what the problem is. What he doesn't want to do is when he goes down and wants to farm the Pichel's land. He doesn't want to spend \$10,000.00 or \$15,000.00 to drop a plow and start planting trees and pay for engineering to move on the farm.

Mr. Kiefer asked Ms. Mallo to go to the first page of the zoning ordinance on agricultural and read that to him. Ms. Mallo said "The rural agricultural district provides a rural low density living environment. The area is extensive without development related facilities such as water and sewer. The district is established to encourage agricultural and related activities as well as to conserve unique natural features such as flood prone and sloping areas and wildlife habitats and to help protect the watershed areas for the Springtown water systems and the Hellertown water supplies. The district is established to also allow development while encouraging protection of valuable natural resources." Mr. Kiefer said if that's your objective, why would you fight what I'm doing? They are doing all of that. They are protecting the streams. He spent hundreds of man hours cleaning up the stream when that bridge blew out. They are stabilizing soils by planting trees, and doing contour farming. He restored a 200 year old historical building. He's doing everything the Township asked. When you want trees, he gives them to you. He coaches sports. He sponsors teams, and you are fighting him.

Attorney Treadwell said nobody in the Township administration told Mr. Kiefer that he was not allowed to have a nursery on his property. The NOV stated that he needed to get a permit and he needed to file a site plan so the Township administration could make a determination as to what it was he was doing on his property. Mr. Kiefer's position from day one has been "I don't have to tell you and you can't regulate me". That's where we are and that's why it's going to the ZHB.

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Mr. Kiefer said he doesn't think that's really the attitude he had, but what he wants to do is expand and the Township wants to control him. Every time they meet, the Township is worried about him expanding. You've wrote it on pieces of paper. Attorney Treadwell said you have not showed anybody in the Township administration a site plan or what it is you are actually doing on that property. Mr. Kiefer said for 23 years, he's done the same exact thing. Attorney Treadwell said you've gotten bigger, and bigger, and bigger. Mr. Kiefer said right. Attorney Treadwell said the Township has asked that you show them a site plan. You said you don't want to do that. Mr. Kiefer said he doesn't want to continuously do it every time he tries to farm an agricultural piece of land.

Attorney Edwards said does the code define differently what the use he described as commercial nursery, retail use, than defining what Mr. Kiefer is doing here today. Ms. Mallo said the definition of nursery is "a business that grows for sale, trees, shrubs, and flowers, but not including forest activities". It's pretty cut and dry.

Mrs. deLeon said what would it cost if he's the applicant and wants to change our zoning? Does anyone have a ballpark figure? Mr. Garges said it would be a petition to Council to change the zoning ordinance. Mr. Kiefer said the permit is not the issue. It's the excluding nursery as an agricultural use. He is not in there with daycare centers and bed and breakfasts.

Mrs. deLeon said didn't you write a letter to the Attorney General? Attorney Treadwell said Mr. Kiefer and Attorney Monahan wrote to the Attorney General and stated that they thought Lower Saucon Township was violating the ACRE provisions, which are the state agricultural provisions. The Attorney General sent a letter back eventually to the Township saying they were not going to file a complaint against Lower Saucon Township over that issue. Mrs. deLeon said she didn't know if we had the ordinance wrong, but apparently, we don't, or they would have found fault with it. Mr. Kiefer said the reason the Attorney General didn't defend him is he thought that the Township would let you do it. Mrs. Yerger said we're letting him do it. We're not denying him. Mr. Kiefer said that's the reason they didn't interfere. Attorney Treadwell said they don't prohibit a nursery use in the RA zoning district. It's a permitted use if you follow the site plan and permit requirements.

Attorney Edwards said the issue before the board today is that is he being treated differently than any other similar use in the Township because you are quantifying his use as nursery. It's not for him to decide or necessarily for you to decide here today, but he's asking for your support and he's here trying to explain his situation as to what the issue is. The issue is not the permit. The issue is the engineering. The time it takes when he sees a growing season, he knows he has to plant now. Mr. Kiefer has done work for Attorney Edwards and when it rains, you'd better have your stuff in the ground. He can only dig certain times of the year. He knows certain times of the year not to call Mr. Kiefer on the phone as he doesn't answer because he's working sun up to sun down. He is pressed for time, just like a farmer is. What he does is very similar in a lot of ways to somebody who plants corn or soybean or anything else. Is there an inequity in the way you are treating him compared to the way you treat other so-called farmers in the Township. That's the issue and he's asking you, the Board, to consider maybe the way the code is written is written in an inequitable manner. He would ask you to think about the argument he's making, put aside the other issues he's had because whether the permit is \$500.00 or \$1,000.00, it comes down to engineering. You don't just go into your engineer's office and ask him to produce one of these for you tomorrow. It's a process. Is his business being stymied by the code? Are you hurting him? Are you treating him differently than the rest of the residents?

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Attorney Treadwell said if he files a site plan for this property and he gets a permit for this property, then he can conduct his nursery on this property, anywhere on this property. Is your question then, if he goes to the next 40-acre parcel down the road and wants to do this again, he doesn't want to be regulated again? Attorney Edwards said that's the issue. If a farmer calls him and wants him to farm his back field and says it's the season, he wants to do it now as he got a lot of calls in and he can sell a lot of soybean in the fall. In his Township, there's no issue. He goes and does it. They want to promote that use and they want him to be viable. Mr. Kiefer doesn't have that same flexibility. He would have to file another site plan for 40-acres or 10-acres, wherever it might be. Is it being treated the same way and is the use similar? Attorney Treadwell said is the use similar. Is the farmer who's planting the soybeans and then harvesting the soybeans and selling them in one season, is that the same as the way the Township's nursery definition is written, which is the growing or harvesting trees for sale. Attorney Edwards said Mr. Kiefer has gone to the ZHB with that issue. Attorney Treadwell said he's going to first go and appeal the NOV. That will be the first question. Was the NOV correctly issued or not? Attorney Edwards said he'd like the board to consider, and make sure the question is right, that is his situation different? As we leave you tonight, would you consider that question and take some time to discuss it and have a position for the ZHB on his question here tonight?

Mr. Kern said the way it is currently written is the nursery is separate from an agricultural use, and is there a reason for that when it was originally written for it to be separate? Was it anticipated that the nursery use would be more commercial where you would have a parking lot that would require some engineering involved versus a nursery that is strictly growing trees? Attorney Treadwell said it's written the way it's written. That's the larger question. Should it be written that way? He doesn't know if we have that answer or if we'll have it tonight, but he thinks some of the difference is that Mr. Kiefer's business appears to involve more continuous type truck traffic, i.e., he is harvesting trees from somewhere, and then he is bringing them in. Then the next day he might go harvest them somewhere else, and bring them in as opposed to what some might consider your more pure agricultural such as growing soybeans where you are in there planting it and then you are in there tending it and maintaining it and then you harvest it. There's a little bit of a difference in the way both operations function. Attorney Edwards said if that's true, and he doesn't disagree with the point, is there a difference between what Mr. Kiefer is doing and somebody who has a walk-in greenhouse where they sell potted plants and decorations. Do you define that use differently? Mr. Garges said that use is defined in the zoning ordinance. Attorney Edwards said he thinks what Mr. Kiefer is asking for is an escalation of uses and that his be classified or quantified in the lower use that he is a farmer. His viability depends on you. You're either going to allow him to be viable as an individual who's farming and what the State of Pennsylvania seems to want, or you are going to take it from him. What Mr. Kiefer is saying is he can't survive currently under the ordinance. He's been doing it for 23 years, and now all of a sudden what he's been doing is no longer acceptable. Mrs. deLeon said she doesn't think the ordinance changed. She thinks the nursery and greenhouse wording was in the 1988 ordinance, and she doesn't remember the date on the prior one, but those uses have been in there. Attorney Treadwell said maybe Mr. Kiefer can explain that he's been doing it for 23 years. He thinks he means that's been his business for 23 years, not that he's been doing it at this property or in Lower Saucon Township. Mr. Kiefer said he has definitely been doing it in Lower Saucon at four different locations for 23 years – 3178 Lower Saucon Road; 1917 Leithsville Road; the cemetery behind that property and he doesn't even know if it has an address; and currently the property he has now - three properties without an issue ever since Charlie Senich was here. Mr. Kern said he may have been in violation of the zoning ordinance all these years and no one has known it. Mr. Kiefer said yes, he thinks they have known it. Charlie Senich gave him approval to run the 1917 Leithsville Road farm. Chris Garges gave him permission to put trees in the cemetery as long as he didn't expand. He would say that on every property except the 3178 Lower Saucon Road he had permission. The

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3178 property is at the bad turn on Lower Saucon Road. He used to have two houses there and had nursery stock there.

Mr. Maxfield said let's make this simpler for us. What's before us tonight is whether this applicant was in violation of our law at the time the citation was issued. If he really wanted to challenge the ordinance, he went about it the wrong way – he went about it backwards. He's not adverse about changing the ordinance sometime in the future, but as we've all agreed, now is not the time. We need to judge what is here before us right now and you can't sit here and tell us what you've been doing for 23 years and he can cite how many times he's broken the law that they are aware of. That counts toward your attitude. It counts towards what we are going to experience with you in the future. That's not going to play into the decision right now. It's not even a decision; it's a recommendation or an opinion. That doesn't matter.

Attorney Treadwell said let him get back to the procedural aspect of this. A NOV was issued and Mr. Kiefer appealed it. That's in front of the ZHB. The Township Council has nothing to do with that whatsoever. If you want to change your zoning ordinance, that's something you can consider and that's within your authority. The NOV is nothing for Council to do anything about. You don't make a recommendation. You don't make anything. The Township has the burden in front of the ZHB of proving to the ZHB that it issued the NOV correctly and that Mr. Kiefer is operating a nursery and that he's doing so without a permit and without a site plan. In the event that the ZHB determines that the NOV was correct and he is operating a nursery, Mr. Kiefer has also requested some other relief from the ZHB which is basically, "okay, can I have a variance then"? You are allowed to take a position if it gets to that point. You don't make a recommendation. Mrs. deLeon said will it happen on Monday night? Attorney Treadwell said it will all happen on Monday night. Mr. Kern said we don't have enough information to make a decision and we have to go with current zoning ordinances. Attorney Treadwell said there's never a recommendation from Council. You take a position or you take no position. With regards to the NOV, you don't take a position. You don't do anything. If you want to take a position with regard to the variances he has requested, you can do so. In the event the ZHB says you're a nursery, your application says "well if I'm a nursery, then I'm asking for a variance for relief".

Mr. Kiefer said he did bring all his immediate neighbors and they are not opposed to it and they believe what he does is an agricultural use. He has no immediate neighbors that are opposed to what he is doing. Mr. Maxfield said he's confused to where we are going. Mrs. deLeon said the ZHB has to make a decision based on their interpretation of the ordinance. Mrs. Yerger said the only thing we can do is request to revisit our ordinance and see if we want to investigate amending it for the future, but immediately, the process is already where it's going to the ZHB, so it's out of our hands literally.

Attorney Edwards said what he hears Council saying is if it goes to the variance request, the Board could either make a recommendation or not make a recommendation as to whether the variance is approved. That's what Mr. Kiefer is asking for as he anticipates it going to the issue of the variance. If the variance is approved, the issue more or less becomes moot. He hasn't consulted with Mr. Kiefer on this, but the need for the zoning change wouldn't be necessary because he now has a variance. If you supported that, it would become a moot issue. Mrs. Yerger said if we're anticipating on addressing this on a bigger issue, we need to look at the ordinance.

Attorney Treadwell said the Township put this on the ZHB agenda for this coming Monday night as we hadn't heard from Mr. Kiefer or his Counsel for a fairly long time. The Township said we need to put this on. If as a Council, you would like more information before the zoning hearing, we could ask Mr. Kiefer if he would agree to a

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continuance of the ZHB meeting to gather more information. Mr. Kern said that's the only way because we don't have enough information on the variance to make a decision at this point. We'd have to decide to oppose it as we don't have enough information. Attorney Treadwell said if you ask Mr. Kiefer to continue the zoning hearing that is on Monday night and you direct the administration to continue it, and Mr. Kiefer agrees, we will take it off the ZHB agenda and if you want more information, the administration will bring back more information to another Council meeting. Mr. Maxfield said we have to agree not to proceed. Mrs. deLeon said it should be in writing this evening so we have it. Attorney Treadwell said he does not have a problem if Mr. Kiefer agrees to it this evening and followed by a letter from Attorney Monahan. Attorney Monahan has sent similar letters in the past. Mrs. deLeon said on Chris' memo, it says "should the applicant lose the above-mentioned appeal, the NOV, he is seeking relief from Section 180-19.a.1a., which would basically require the ZHB to determine that the definition of nursery in our zoning ordinance does not apply to this applicant. At that point then, the applicant is requesting that the Board consider the use agricultural and grant relief from the required site plan approval process". That would be the variance. Attorney Treadwell said that would be the second step and it all hinges on what happens in the first step, which is the NOV step. Mrs. deLeon said that still only applies to this specific property. It doesn't give you permission to go anywhere you want in the Township. Attorney Treadwell said a variance would only apply to the property we are talking about now. Mr. Maxfield said that's why we need to examine the ordinance. Mr. Kern said it would be to Mr. Kiefer's benefit. Mr. Kiefer said he doesn't have a problem with continuing it. He had a lot of people who were going to come on Monday night, so he has to contact them. They had over 1,000 people who were going to show up. He'll contact them and tell them to show up another day. Attorney Treadwell said if you are going to have 1,000 people show up the next time, let them know as they will need a bigger room. Mr. Kiefer said a lot of people support what he does. What's happening is wrong and he thinks the majority of the community thinks it is wrong also. A nursery is an agricultural use. Mrs. Yerger said there are a lot of ordinances in Bucks County. There are huge nursery growers down there. Even if it's an agricultural use, she's sure there are some guidelines they must follow whether it's a nursery, whether they can plant right up to the road and things like that, just for safety reasons. You can't have an evergreen tree at an intersection 2' from the curb. She's sure there are guidelines that we can look at in Bucks County that will help them. There are thousands of acres that are in nursery use in Bucks County. She would suggest we start that process there. Mr. Kiefer said he agrees with her there, but you'd also think you couldn't have 6' corn grow right up to the stop sign and you can. He would be a responsible property owner. You wouldn't see his trees in a site triangle, and most farmers wouldn't plant their crops and block site triangles. Setbacks are a different story. If you look at this property and the way it's shaped, you move in 30' on either side, and there's a lot of unproductive land.

Attorney Treadwell said if he's hearing everybody correctly, Mr. Kiefer doesn't have a problem with continuing the ZHB on Monday night? Mr. Kiefer said no. Attorney Treadwell said the Township is under a time frame to hold the hearing from the date his appeal was filed and there have been numerous continuances, so he doesn't have a problem with that if Mr. Monahan will send a letter tomorrow agreeing that there's a 60 days, 90 day extension to hold the hearing. Mr. Kiefer said he would appreciate it and like it if they went into the summer months when they are not working seven days a week, 15 to 16 hours a day. If he's saying 90 days, that puts us towards August, and that would help him and help his family. He doesn't want to deal with anything except digging and planting trees for the next three months.

Mr. Horiszny said what does that delay do with the occupancy permit and the deck building permit that were never obtained? Mr. Kiefer said he got the deck and occupancy permit. Attorney Treadwell said those are over. Mr. Kiefer said he's stood up for his

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rights and if you say that's a nuisance, he apologizes, but you never fined him for anything. He's never been guilty for anything in this Township, never. Mr. Garges said that goes towards the leniency they had. Mr. Kiefer said he appreciates Mr. Garges working with him. He said up until this property, he and Mr. Garges always had an open communication. He appreciates that and it's one of the reasons when you wanted trees, he never charged you and he just gave them to you. That's the way a community should work.

Mr. Maxfield said if this happens again, we agree that you communicate and we talk instead of not talking? Mr. Kiefer said that's the relationship he always had with Charlie Senich and it's the relationship he always thought he had with Mr. Garges until this property. Mr. Maxfield said you have to admit the series of violations doesn't look good for you, but again, if you really feel this is unfair, we need to talk about this. Mr. Kiefer said that's how he does feel. He doesn't have the money or resources to fight the Township, so if he can put it off and farm a little bit more, and keep his family clothed and fed, then that's what he does. Mrs. Yerger said he should call Mike Feeney. Mr. Kiefer said Mike Feeney is really a good friend of his and so is Mr. Kohl and all those guys. They contract dig for them. He's given the Heritage Conservancy thousands of trees, and it's not always through his name. It's through David Wax and he's organized all those trees. He's given the Heritage Conservancy lots of trees and times, and that's why he's confused when you pick on him. He's just trying to farm.

Mr. Maxfield said do you know how much you took out of us being tree huggers with this whole issue. It's tough. You said you were going to continue. We have to make a motion that we will oppose unless you continue just to cover ourselves.

**MOTION BY:** Mr. Maxfield moved to oppose the request for variance relief unless Mr. Kiefer continues the ZHB meeting.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

Attorney Treadwell said if they get a letter from Mr. Monahan tomorrow granting a 90-day extension for the hearing, nobody is going to go to the ZHB. Mr. Garges said the ZHB meeting is advertised for Monday, so if they get the letter, they will just say at the hearing any applicants or anyone that comes that wants to speak to it should know it's continued and they should follow up with future agendas to see when it's on again. If we don't get the letter, then Attorney Treadwell will go the ZHB. Mr. Kiefer said July or August is 120 days away. He wasn't thinking of the month's right. To put him in July or August would be when things start to slow down. Is it a reasonable request not to be in his digging season? Mr. Maxfield said he thinks we are going to be done with this a long time before that. Attorney Edwards said could we do 120 days? Mrs. deLeon said he's still in violation. Mr. Kiefer said he thinks we can get this out of violation. He has a plot plan for them. He'll pay for the permit in the meantime if we agree we are going to move forward to try to change the zoning. Attorney Treadwell said he doesn't think anybody has agreed to that. We will look into it. Attorney Edwards said what he's saying is keep it open for discussion. He will pay the permit fee, put down 120 days and you've got what you need. Attorney Treadwell said if Mr. Monahan wants to put 120 days in the letter, that's fine with him or whoever sends the letter. It's agreeable to the Board.

Mr. Garges said from the administration standpoint, as soon as the next meeting on April 6<sup>th</sup>, we may have information for the Board is requesting to consider. Mr. Cahalan said they can do that and get the information to them.

Mrs. deLeon asked Attorney Edwards where he lives? He said Bedminster Township, Buck County above Doylestown, not known to be an easy Township.

**2. SPRING VALLEY SPORTSMAN'S CLUB – LIBERTY TOWERS, LLC – GREEN ACRES DRIVE – VARIANCE REQUEST FOR RELIEF OF REQUIRED SETBACK FOR COMMERCIAL COMMUNICATIONS TOWER**

Mr. Kern said the applicant is requesting a use variance to permit the installation of a commercial communications tower. The applicant will require two hundred (200) feet of relief from the required setback.

No one was present representing the applicants.

Attorney Treadwell said a tower in this district isn't permitted. They are asking for a use variance, which is to install and construct a tower in a zoning district where it's not allowed.

Ken Davis who lives off of Reading Drive said he got a notice as he lives close enough to the proposed tower. The folks are asking Council to recommend opposition to granting a variance. He's not a lawyer, but he read the ordinance and putting a 180' steel tower in their neighborhood will change the nature of their neighborhood. It's a residential setting. They've got park land and trees and they moved there because they liked Lower Saucon. They like this area. They want to raise their families here. They didn't move next to a commercial place to get great cell coverage. That's why they have land lines and cable modems. Our reading is because it fundamentally changes the nature, it shouldn't be granted a variance and we'd ask that you all have the Township folks work against having this variance be granted in front of the ZHB on Monday night. Mr. Maxfield said what Attorney Treadwell just told them makes it pretty easy for him.

**MOTION BY:** Mr. Maxfield moved that Council take a position of opposition.  
**SECOND BY:** Mr. Horiszny

Mr. Kern asked if anyone had any questions or comments? Mrs. deLeon said years ago when we formulated the cell tower ordinance and picked spots in the Township where we would allow them or not, we really researched that. There were reasons why we okayed certain areas. It's clear.

Mr. Kern said when other cell companies have come in here and wanted to put a tower where we didn't want them to put one, is there any way a cell company can claim because of lack of coverage, they have a right to put a tower in? Attorney Treadwell said they will claim it, but in his opinion, they aren't going to get very far with it. With cell towers, AT&T will claim they have coverage there, but Verizon will claim that they don't have enough coverage. If there are 50 cell providers, they will all come in and say the same thing. Mrs. deLeon asked if Liberty Towers want to put up a facility? Attorney Treadwell said they want to put up a tower. The majority of the cell tower applications you have seen in the last five years have been co-locations on existing towers. This is a brand new tower. Mr. Maxfield said are any of your houses in the fall zone? Attorney Treadwell said the fall zone is 1-1/2 times the height of the tower. Mr. Maxfield said they haven't really told us where it's going. Mr. Davis said he's looked at the property and looking at the site plan, there are homes within the fall zone. They fell within 300' of where they are putting the tower. He thinks there are three or four of them here tonight that got letters. They then mailed them out to everybody else. Mrs. deLeon said that's not a fall zone. We're talking if the tower falls, it has to be 1-1/2 times the height of the tower. Mr. Davis said they are just outside of where a 180' tower would fall. Mrs. deLeon said we have a regulation that says if you are within a radius of this proposal, you have to be notified. That's why only

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certain people got notices. Mr. Davis said the houses behind him are closer to the fall zone. It will be visible from everyone's house. Mrs. deLeon said just be sure to speak at the ZHB meeting. Attorney Treadwell said he won't personally be there, but they will have an attorney there representing the Township.

**ROLL CALL:** 5-0

**B. DRAFT ORDINANCE FOR EIT REFERENDUM**

Mr. Kern said the Solicitor has prepared a draft ordinance for the EIT Referendum which has been reviewed by the EAC. If Council adopts the ordinance, the EIT question will be placed on the ballot for the November 8, 2011 general election.

Attorney Treadwell said this is the ordinance that would place the question on the ballot. A couple of variables that he just used were what we used last time and that was the amount of number of years. He kept it the same percentage and for five years. He doesn't know if Council had any desire to change that or not? The only difference on the ballot question this time around if you vote to proceed with this is the question for the electors is "do you want to continue the imposition of the tax" as opposed to the first time it was "should the tax be imposed".

Mrs. deLeon said was this on the primary or the general ballot last time around? Mr. Cahalan said the general. Mrs. deLeon said she thinks it say it refers to second class code, but it should say home rule optional plan in the first WHEREAS. She doesn't know why again, as this is a yes or no vote to the voters, Section 3 refers to a vote of yes. Shouldn't there be another section of a vote of no. If you say yes, why don't you say no. You are thinking positive, then why are you going through the referendum? Attorney Treadwell said that's not why he wrote it that way. It's written that way because a vote of yes will approve it. He can add in there that a vote of no to the aforementioned ballot question disapproves the imposition of the additional tax. If it makes it clearer, they will add it in. Mrs. deLeon said it makes it clearer to her. She said she read somewhere you are going to have a list of the properties that we've already purchased, is it forthcoming or do we have a list? Mr. Maxfield said we want to have a press release. Attorney Treadwell said he's sure it would be very easy to come up with a list of the properties that we've used open space money to purchase. Mr. Cahalan said they have that list. Mrs. deLeon said she was just thinking if she was a voter, she'd want to know as this is the second request. It's just approving we did use the money to buy the land or easements. It should be ready for residents. There's been discussion over when we have purchased easements or made acquisitions, which not all the money that is paid for whatever we are buying, didn't completely come out of the open space money. Some of the money has come out of General Fund money. Mr. Cahalan said that's correct. There was a discussion after this was passed the last time about certain expenses that are incurred in the open space acquisition process and also Attorney expenses and appraisals. There are some baseline assessments. They brought that to Council. We did have an opinion from the Open Space Solicitor that it could be taken out of the EIT, but Council voted to take the expenses out of the General Fund. Mrs. deLeon said she knows how the vote went. She's asking for a list of all the General Fund expenses that were paid out of the last five budgets for these expenses. Mr. Cahalan said sure. Mrs. deLeon said she'd like to know that. Mr. Cahalan said to make it clear, there are the expenses of collecting the tax that is taken out of the EIT. We pay Berkheimer to collect that tax. He can get that information to her.

Mrs. Yerger said in addition, she'd like Mr. Cahalan to have all the additional funding they were able to acquire outside of the Township using the EIT, if we could report on that also. The DCNR grants to match so that it saved the Township literally lots of money by getting matches.

Mr. Kern said does his ordinance have a number? Attorney Treadwell said we need to advertise it. The number is 2011-03.

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**MOTION BY:** Mr. Horiszny moved to advertise Ordinance No. 2011-03.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone had any questions or comments? Ms. Laura Ray said when they had their EAC meeting, they just wanted to make sure about making some wording changes to make it more clear on what the money was spent on. The one section specifically said to purchase agricultural easements and then the other section said conservation easements. It made it sound like we don't do conservation easements unless it's an agricultural one, and we talked about changing the wording. Mrs. Yerger said the Township could purchase real estate interest and /or conservation easements in undeveloped. They added "and/or". Ms. Ray said it makes it more clear to people. We are not just purchasing land and we are not just doing easements on agricultural properties.

**ROLL CALL:** 5-0

**C. POLK VALLEY ROAD (NORCAR) PROPERTY – SUBDIVISION OPTIONS**

Mr. Kern said Council requested that staff provide information on options to sub-divide the parcel containing the Rentzheimer House from the NorCar property acquired by the Township in September 2005.

Mr. Cahalan said they had asked the Township Engineer to put together this memo awhile back. It came here previously for a short discussion. Council asked for additional information and what were some of the options that could be done with the house that is on the property. They included something in there that they obtained from a local realtor. It gives you a brief market analysis of the existing house. They let the realtor look at the three subdivision options and he was able to give them an estimate in what he believes the house would sell for under those options.

Mr. Kern said you think you could get \$80,000.00 in the current condition. Mr. Horiszny said he thought he read that is the land? Mr. Cahalan said it would be the house with the layout 1 or layout 2 or 3. Right now with the current condition, you have no property. It would have to be with the house in its current condition with one of those layouts chosen. A note was made that septic system should be replaced and tests would be needed. Mr. Horiszny said we as a Township couldn't fix that place up and then try to sell it? Mr. Cahalan said you could improve it, then if you sold it subject to the second class code. Mr. Maxfield said there is a 4<sup>th</sup> option and as he read through it, every portion of the house needs to be revamped. There's always a final option of taking it down and adding that land to the Polk Valley Park. Mrs. Yerger said she came to the 4<sup>th</sup> option also looking at the proximity to the park. We know the athletic fields are already there. We have to live with the idea that the population in Lower Saucon isn't going to go down, it's going to go up, assuming children with it at some point. Mr. Cahalan said there's another variation with that option and that's seeing if someone wants to remove the house rather than just demolishing it. Mrs. Yerger said that would be great. We should explore that option. That would be the best solution. Mrs. deLeon said it's a little over an acre. It's a neat house, but in rough shape. Mr. Cahalan said he can come back with that and see if it looks like it is feasible. He doesn't know whether it could be moved, but they will get a contractor to come in and see if it's feasible. Mrs. deLeon said the original track of 11 or 12 acres we got from NorCar, for Polk Valley Park, we really haven't planned anything for that site other than the Dog Park? We have some ideas. Mrs. Yerger said she thinks at one point there was a sketch plan of a baseball field further down and that a ball field would fit there.

Mr. Cahalan said they will bring it back to Council with more information.

**D. REVIEW OF REVISIONS TO PARK MAINTENANCE POLICY**

Mr. Kern said in the preparation of our annual lawn care bid documents, we consulted the agronomist who helped develop our park maintenance policy, to review the weed and feed

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applications. He amended some of the applications to better maintain our fields and park areas. We have amended the park maintenance policy to reflect these changes.

Mr. Cahalan said we brought this to the previous Council meeting. We asked the agronomist to make some minor changes to the policy and Council indicated they wanted this reviewed by the EAC before a decision was made. That was done and taken to the EAC meeting and their member, Colin Guerra, who is a landscape horticulturist, did look at it. They had some discussion at the meeting and then Colin took it home and went through it. He sent in several recommendations after looking at the policy. He made a suggestion that the seed mix that is mentioned in the policy that is used for overseeding be changed from a rye grass blend to a fescue blend. He suggested that slit seeding rather than broadcast seeding be used following the aeration of the athletic fields. He suggested the weed control goal that is expressed in the policy be lowered from no greater than 20% to no greater than 10%. He suggested the natural and meadow areas of Polk Valley Park be mowed annual to a height of 6". He suggested that all overseeding be done through slit seeding rather than broadcast seeding and he recommended that we have the contractors provide seed tags to us before they do the seeding and after. He forwarded Colin's recommendation to Dr. Linde, who is the agronomist we use from Del Val College, and he agreed immediately with the three of the recommendations: That the weed control can be lowered from no greater than 20% to no greater than 10%. That the natural meadow areas can be mowed annually to a height of 6" and that the contractor should provide the seed tags. He does have a difference of opinion on the seed mix and the slit seeding versus the broadcast seeding. He said regarding the seed mix, that the reason he recommended a seeding mix with at least 60% perennial rye grass was that currently the fields at Polk Valley have 80% Kentucky blue grass/perennial rye grass and a 5% to 20% tall fescue mix. Tall fescue is a great lower maintenance turf, but when it's there in a small percent on a sports field, he indicated it can get very clumpy and this can affect playability and also safety. He provided Council with all of this information. He showed a photograph showing how the fescue is planted, and how it can get into clumps, which is not safe for both the playability and for the safety of the players. He said if the predominate species in the current field was tall fescue, then he would have recommended a higher percent of the fescue seed mix. That's what was planted at Polk Valley Park and that's what's been there and that's what they've been over seeding with, the same type of mix. We use a broadcast seeding method following aeration. The machine goes over and it takes up clumps of dirt. That is broken up and it's raked back into the turf. They do a broadcast which covers it and then it gets mixed in by the players using the field. It grinds it up and mixes the seed in quite well. It's been used out there for three years and it's done a great job. If you have seen the field during the fall after heavy play, it has worked. The slit seeding is a good process, but it's more expensive. He's not sure it's going to be any more effective. With those two items, and Colin's recommendation and Dr. Linde's recommendation, Mr. Cahalan's recommendation is to stay with the current seed mix we're using for the over seeding and also stay with the broadcast seeding instead of going with the slit seeding. The reason being if we would change to the slit seeding, he believes the cost of that is going to be higher and we do have some bids you are going to be asked to consider approving here shortly. Those bidders bid on the lawn treatment portion of the bid based on a broadcast seeding process. If we say we want to do slit seeding, he believes they would say the costs are going to be higher and we might have to re-advertise the bid. He recommends that we stay with the broadcast seeding. We can make the other changes that Colin recommended without any problem. That doesn't change anything in the Park Maintenance Policy, which was used as a basis for the bids that we are going to recommend to you.

Ms. Mallo said Ms. Stern Goldstein sent an email to Mr. Cahalan earlier today. Mr. Cahalan said that's on the two natural and meadow areas. He should say what that indicated was some of those were under maintenance period with the contracts we have, so they can't be mowed until after the maintenance period expires. Mrs. Yerger said when is that? Ms. Mallo said usually 18 months. Mr. Cahalan said the contractor is doing that. Ms. Mallo said Ms. Stern Goldstein just wanted clarification in the Park Maintenance Plan because the area that is in discussion right now says playing fields and there were question marks as to the meadow area. Mr. Cahalan said those were left that way because they could have been left blank, but they were put in as questions marks. Ms.

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Mallo said Ms. Stern Goldstein recommended that the comment be worded naturalized storm water management areas, naturalized meadows and other areas of naturalized herbaceous vegetation are to be mown at a minimum of one time annually following the end of the 18-month maintenance period in accordance with the maintenance notes and details with the respective approved landscape plans. If it's within the maintenance period, then the developer is responsible for mowing it. She doesn't want the developer coming in and saying it has to be mowed to 6" once a year, we're done. This will require them to follow their maintenance schedule that is on their approved landscape plan. Mr. Cahalan said that's why they left that blank in there as it is being covered by the contractor. He doesn't think Colin knew that when he looked over the policy. Mrs. Yerger said they didn't know that. Is there any way to get those fields mowed early this spring like within the next couple of weeks? Mr. Cahalan said they are all done. Mrs. Yerger said that's the only way you are going to control the invasives. Mr. Cahalan said Ms. Stern Goldstein sent a letter to the contractor about some ongoing concerns, but it is all completed. Mr. Horiszny said does this mean you have to mow more than once or do we just want it done once? Mrs. Yerger said you can do it just once. The main goal until it's actually turned into a wildflower meadow, is you just want to control invasives, so you want to get it cut in Spring as early as you can. Mr. Horiszny said the way it reads, you can cut it again. Ms. Mallo said they were recommending this be added into the area right above the chart. Mr. Cahalan said it's under the weed control section. Ms. Mallo said adding it in as a separate paragraph. Mr. Cahalan said this policy was used by the bidders. We didn't ask any of them to bid on that work, on that mowing as it was covered by the contractor. Ms. Mallo said this would be just for you so that when it does go out, it's not just the once and done. Mr. Cahalan said correct. Ms. Mallo was just trying to make sure it was covered. Mr. Cahalan said they will fix it.

- MOTION BY:** Mrs. deLeon moved for approval of the Manager's recommendations for the Park Maintenance Policy.
- SECOND BY:** Mr. Horiszny
- Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

Mr. Horiszny said one item on the first page, the Polk Valley Park lists one Dog Park, and then down at the bottom you have a Dog Park. You really don't have to two, so one of those is extra. Mr. Cahalan said they will fix that. Mrs. Yerger said is the Dog Park closed? Mr. Cahalan said it is closed due to wet conditions.

### **E. LAWN MOWING & LAWN CARE (MAINTENANCE) BID AWARDS**

Mr. Kern said the lawn mowing and lawn care (maintenance) bids were held on March 4<sup>th</sup> and the Manager will review the results and recommendations for award with Council.

Mr. Cahalan said Solicitor has reviewed the lawn mowing bids. The bids were opened on March 3<sup>rd</sup>. There were nine bids received. Attorney Treadwell said unfortunately the low bid had some missing documents and came in a little late. You would have to disqualify Hillcrest because of that issue. Your lowest responsible responsive bid is TruGreen. Mr. Cahalan said that's in the amount of \$45,702.00. Mr. Kern said that's \$100,000.00 less than the high bid. Mr. Cahalan said it's a very competitive price and they are very happy with the bid. He would recommend you approve the bid for lawn mowing services for 2011 on Township parks and property to TruGreen and the amount is \$45,702.00.

- MOTION BY:** Mr. Horiszny moved for approval for lawn mowing services for 2011 on Township parks and property to TruGreen and the amount is \$45,702.00.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

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Someone from TruGreen was present. He said he didn't know if the Hillcrest issue was going to be talked about.

Mr. Cahalan said the Chemical spraying bid was also opened on March 3<sup>rd</sup>. They received four bids. This is the first year we are doing that. We also got some good prices on that. The low bidder is TruGreen at \$17,519.00. All their papers were in order, so we're recommending that the Chemical Spray Bid for 2011 for Township parks and properties be awarded to TruGreen in the amount of \$17,519.00.

**MOTION BY:** Mr. Horiszny moved for approval of the Chemical Spray Bid for 2011 for Township parks and properties be awarded to TruGreen in the amount of \$17,519.00.

Mrs. Yerger said what exactly is the chemical spraying? Mr. Cahalan said that is from the Park Maintenance Policy and what is specified in there. He said the terminology chemical spraying was used when it went out and it should have said lawn treatments. Mr. Kern asked Mr. TruGreen if he lived in the Township? He said he did not.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

**F. RESOLUTION #34-2011 – UPDATE TO EMERGENCY OPERATIONS PLAN**

Mr. Kern said the Emergency Management Coordinator has conducted his biennial review of the Township Emergency Operations Plan (EOP) and has updated the Notification and Resource Manual (NARMS) section of the plan.

**RESOLUTION APPROVING UPDATES AND REVISIONS TO THE EMERGENCY OPERATIONS PLAN FOR LOWER SAUCON TOWNSHIP**

**WHEREAS**, Section 7503 of the Pennsylvania Emergency Management Services Code, 35 Pa. C.S. Section 7101 et seq. mandates that Lower Saucon Township prepare, maintain and keep current an emergency operations plan for the prevention and minimization of injury and damage caused by a major emergency or disaster within Lower Saucon Township; and

**WHEREAS**, the Township Council last adopted the Emergency Operations Plan of Lower Saucon Township on March 18, 2009; and

**WHEREAS**, This Plan shall be reviewed every two years to make certain that it conforms with the requirements of the Northampton County Emergency Operations Guideline; and

**WHEREAS**, the Township Emergency Management Coordinator has updated the Notification and Resource Manual Section (NARMS) of the Emergency Operations Plan which identifies critical personnel, equipment and facilities; and

**NOW, THEREFORE**, we, the undersigned Council of Lower Saucon Township do hereby approve revisions to the NARMS portion the Emergency Operations Plan of Lower Saucon Township.

Mr. Cahalan said if it looks okay, then you can approve it.

Mrs. deLeon said the Resolution number is wrong in the resolution and the second WHEREAS, we've had this plan forever, shouldn't it go back to when we started it and not have March 18, 2009? Mr. Cahalan said he doesn't have a copy of what was done previously. This was the last one he had. Mrs. deLeon said doesn't the Police Chief have a copy? Mr. Cahalan said he could ask him and get an earlier date. Mrs. deLeon said this was a requirement that was supposed to be looked at way back. Mr. Cahalan said it could say last adopted. Mrs. deLeon said the ID badges

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that we've been talking about since Ivan in 2005, what happened to them? Mr. Cahalan said they were doing them, and then they got turned over to the County. Mrs. deLeon said remind the County about that. Things happen and as a responsible elected official, we should have some kind of ID if something happens. Mr. Cahalan said he will pass that on to Bill Csaszar.

**MOTION BY:** Mrs. Yerger moved for approval of Resolution #34-2011, with the corrections.  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**G. APPROVAL OF USE OF POLK VALLEY PARK FOR LAX DAY ON APRIL 30, 2011**

Mr. Kern said Saucon Valley Lacrosse is requesting approval to hold their 2<sup>nd</sup> annual LAX Day event at Polk Valley Park on Saturday, April 30<sup>th</sup> from 7:00 a.m. to 7:00 p.m., weather permitting. They have complied with the requirements of the draft Special Events Policy and received a recommendation for approval of the event from the Parks & Recreation Board at their March 7<sup>th</sup> meeting.

Mr. Cahalan said this would be their second annual day. They held one last year at Polk Valley Park. They complied with the Special Events Policy with that event. It was very successful. They had some lacrosse games. They had some booths and drew a good crowd. The weather was great. They would like to do this again. They have filled out the Special Event Policy questions. They included a map showing where they would be locating the booths, and the other apparatus that would be used for this day. It was reviewed by Parks and Recreation at their March 7<sup>th</sup> meeting. Parks and Recreation indicated to them again to use the designated overflow parking area on the NorCar property if it is needed. Last year only one car needed to use it. They also will use parking signs and cones that the Township supplies them. They will also, at our request, employ parking monitors who will walk around the park and insure that no one will park on the grass or the roads. They were very good about that last year. They also asked them to have the ambulance from Dewey park on the paved access road that has the bollard instead of parking on the grass near the fields. Based on that, the Parks and Recreation Board recommended that the Township Council give its approval to this event, subject to them submitting the required paperwork, the security deposit, and any insurance certificates.

**MOTION BY:** Mr. Horiszny moved for approval of Polk Valley Park for LAX day on April 30, 2011.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**H. AUTHORIZE ADVERTISEMENT OF BID FOR PLANTINGS AT KINGSTON PARK**

Mr. Kern said the specs have been prepared for the plantings for Ella's Garden in Kingston Park at the Lutz-Franklin Schoolhouse. If Council wishes to proceed, they should authorize the advertisement of the bid.

Mr. Cahalan said he spoke to Dr. Kingston and Sue Horiszny to update them where we were with the Ella's Garden planting. Roger in Public Works has some additional work to do out there. They have to excavate a couple more feet in the garden and then put down the base material. He plans on doing that next week after he gets done demolishing the Herman House. Once that is finished, he will be all done with the construction by the end of March, beginning of April. At that point, we are good to go with any plantings. Per Ms. Stern Goldstein, as long as we have them all in the ground by the first week of June, we're good to go. We wanted to get this advertisement out for the plantings. This is the list. We've gone over this at several previous meetings and everybody has participated. The Historic Society and Dr. Kingston have reviewed it. It's ready to go and it will be part of this bid advertisement. We also came to an agreement with the maintenance of this

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garden, and the agreement on that was that Dr. Kingston would pay one-third of the annual cost; the Historical Society one-third; and the Township would pay the remaining one-third. They are in the process of drawing up a simple written agreement to that affect. We'll have everyone sign to acknowledge that. Everything is good to go on this. Hopefully we'll get some responses to the bid and open them up and we hope to bring them back to you by April 20<sup>th</sup> for approval, which gives us enough time to get the plantings in the ground. Mrs. Yerger asked if the excavation was done? It looked beyond the garden it was dropped off. Is it going to be leveled off? Mr. Cahalan said he has to do some more work on the pathway and the parking lot is all done.

**MOTION BY:** Mr. Horiszny authorize the bid for plantings at Kingston Park.

**SECOND BY:** Mrs. deLeon

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

**ROLL CALL:** 5-0

### VI. MISCELLANEOUS BUSINESS ITEMS

#### A. APPROVAL OF MARCH 2, 2011 MINUTES

Mr. Kern said the minutes of the March 2, 2011 Council meeting have been prepared and are ready for Council's review and approval. Does anyone have any changes or corrections? No one had any corrections.

**MOTION BY:** Mrs. deLeon moved for approval of the March 2, 2011 minutes.

**SECOND BY:** Mr. Maxfield

**ROLL CALL:** 3-1 (Mrs. Yerger - Abstained, she wasn't at the meeting; Mr. Horiszny - No)

#### B. APPROVAL OF FEBRUARY 2011 FINANCIAL REPORTS

Mr. Kern said the February 2011 financial reports have been prepared and are ready for Council's review and approval.

**MOTION BY:** Mr. Horiszny moved for approval of the February 2011 financial reports.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

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

- Dan Paschke, representative from Representative Simmons office, said Representative Simmons wanted to express his gratitude for you allowing him to use Seidersville Hall for his Town Hall last week. It was fantastic. They had roughly 20 people who attended and they are looking forward to doing it there again, if you will allow them.
- Laura Ray said she wanted to find out about the Herman House as she understands it's coming down soon. The Township is doing the work, are they recycling materials out of it? Mr. Cahalan said the slate, the beams and roof timbers are being removed by Marcus Brandt. He's going to try to recycle as much as he can to work on the root cellar. Mrs. deLeon said she talked to Marcus today and he said the slate is not in the greatest shape, so he's going to have to pick. He plans to take all the slate off and then the road crew can transport it for him. Ms. Ray said what about the siding and things like that? Mr. Cahalan said no. Ms. Ray said is there a reason we're not recycling it? Mr. Cahalan said there's no room. Ms. Ray said not to store it, to scrap it, or recycle it? It's an aluminum sided house. She said she and her contractor drive up and down Polk Valley Road all the time and there are a lot of things that shouldn't go in the landfill. Mr. Cahalan said someone could make a profit for selling it. It's Mr. Herman's property. It's not ours. Ms. Ray said she knows that, but you are knocking it down and throwing it in a dumpster. Mr. Cahalan said Mr. Herman gave away as much as he could. He was working with an architectural reclamation firm and he did give away some of the items inside. The rest of it he's not interested in it and we

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have no use or no place to store it. Ms. Ray said she's not saying that. Instead of putting it in a dumpster, you take it to Blindermans's that takes scrap metal. The whole house is aluminum siding and that can all be recycled. Mr. Maxfield said the spouting can also be recycled also. Ms. Ray said you recycle it instead of it going to the landfill. Mr. Maxfield said that's really a good idea. Ms. Ray said her contractor would love to rip it off the house and take it away. Mr. Cahalan said Roger is going to have to make another pile of things that can be taken to get recycled. Ms. Ray said even the old windows. Anything metal can go to metal recyclers. Mr. Cahalan said they can put it aside, but you will have to talk to Mr. Herman. It's not our property. We're just taking to the landfill. Ms. Ray said the less we put in the landfill, the better it is. Mrs. Yerger said if you are willing to talk to Mr. Herman or have your contractor talk to Mr. Herman, that would be great. We can't predict what he will say, but it's worth a shot. Ms. Ray said she would like the contact information. Mr. Cahalan said Roger is going to try to be out there Monday, Tuesday and Wednesday. They are going to put it in the dump trucks. If you talk to Mr. Herman, you can have your contractor take that away. Ms. Ray said thank you.

### VIII. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER – No report

B. COUNCIL/JR. COUNCIL MEMBER

Eubin Hahn – Absent

Mr. Maxfield – No report

Mrs. Yerger

➤ She said she had discussion with the Lower Saucon Historical Society, Lenny Szy, in particular, with Sue Horiszny and it came to their attention that they needed to do something with the deed to the Lutz-Franklin Schoolhouse. It is a very old document. It needs to be evaluated and needs to be looked at in terms of conservatorship. How is the best way to conserve this piece of paper? She's talked to Mr. Cahalan and she'd like to recommend the very first step is see the Township take possession of this document with Sue's agreement to have it put in a safe place which would be climate-controlled, sprinkled storage in Town Hall. It's in a filing cabinet right now. It was in the Police Chief's office. We need to get it secured. Several people have done research including Lenny and Dr. Paul Puecher, the archivist from the Moravian Church over at the Moravian Archives. He has offered to come and take a look at it and give us our first steps in evaluating it, giving his opinion on the best way to preserve it and how to display it. She would like to ask Council's permission to have the Township and Mr. Cahalan will figure out some numbers. They also recommended eventually a firm down in Philadelphia, the Conservation Center and they would be willing to take it to the next step. They too would evaluate it and do the preservation work themselves for the document. Since he's willing to come for nothing, we should have Dr. Puecher come and Mr. Cahalan make the arrangements. Mr. Szy said he found out from Tom Macarro, who was on the school board, and he wrote when the school was changed to the Township, he did an appraisal. Mr. Cahalan said he has that and he sent it to Dr. Puecher. Mrs. Yerger said they think it's worth \$7,000.00 in its current condition. The historic integrity of the document; it's a unique document to a building that's on the National Historic Register. Sue will make arrangements with Mr. Cahalan.

**MOTION BY:** Mrs. Yerger moved to direct Mr. Cahalan work with Sue Horiszny to store the deed to the Lutz-Franklin Schoolhouse here at the Township and also work on the best policy to restore the document along with Dr. Puecher, from the Moravian Archives.

**SECOND BY:** Mrs. deLeon

**ROLL CALL:** 5-0

**Mr. Horiszny**

- He said we mentioned earlier about the second class township versus house rule. In light of our new census figure, which he saw in the paper is 10,772, does that change that status? We can still be home rule? Mr. Cahalan said we are optional plan. It doesn't change us as a second class township. Attorney Treadwell said it may allow you to vote to increase the next elected people's salary to a higher number. It doesn't change what you are getting now. Mr. Horiszny said he did notice that the new library did not mention that new number. Mr. Cahalan said the agreement is based on the current per capita from last year. Mr. Horiszny said are we officially 10,772? Mr. Cahalan said we got a preliminary number, but nothing official. It's supposed to be April 1<sup>st</sup>.

**Mr. Kern**

- He said an update on the Joint Recreation Group meeting that occurred last Monday at the audion. The DCNR representative was there from the Peer Study group and she facilitated it. As a result of her facilitation, the group came up with some focus points which include coordination of field scheduling; possibility of hiring a recreation coordinator that would coordinate Hellertown-Lower Saucon and the school district sporting events, in addition to other possibilities, which may include marketing the Township and Hellertown, which was quite of a novel concept. They would market things that are going to happen like historic resources; a world class trout stream; rail trail; and things like that. Polling our efforts in financial resources; utilization of the southeastern park for softball field as the girls were looking for a softball field and they weren't really aware it was there or could be utilized. Mr. Cahalan said it's already been signed up to the Boys Little League. They are going to have to talk. They are working on it. Mr. Kern said another discussion point was making Easton Road field into a multi-use field so that Little League, Major League, Senior League or softball could use it. The last point was geese management at the Grist Mill as there are under-utilized fields there because of the goose poop. Mrs. Yerger said she was there and it was awful. She didn't realize how bad it was. She just barely made it. She thought if she kept going, it would lessen, but it didn't. They've got to do something there. It's not healthy. Mrs. deLeon said they were at the PSATs and there was some kind of decoy. It was a coyote and they had them in the pond and it deterred them. Mrs. Yerger said for about three days. If the Grist Mill really wants to start deterring the geese, they have to put a buffer around the pond. A naturalized buffer whether it's reed, and it doesn't have to be that deep and they can allow some fishing access areas. They've got to plant it as geese are sight animals. It won't get rid of all of them as they aren't going to nest there, they aren't going to curl up next to the pond area. They are not going to want to stay there. They didn't want to do that as they said it didn't look pretty. It really should be a recommendation and she can show you parks where they've done it and they've done it successfully. They are doing it at some of the reservoirs also. It would be a natural way to mitigate it someday. It won't completely fix it. It's fairly cheap. Mr. Horiszny said on the coordinator for parks, is there some grant money available? Mr. Kern said the DCNR representative indicated it would be stepped. Mr. Cahalan said it's a five year circuit rider program which starts out at 100%.

**Mrs. deLeon**

- She said she wants to remind everyone if they haven't purchased their tickets yet, Charlie Luthar's banquet is coming up, where they are honoring Charlie. It's the Hellertown-Lower Saucon Chamber's 89<sup>th</sup> annual banquet, Friday, April 8<sup>th</sup> which is open to the public. It's at Se-Wy-Co Fire Banquet Hall at 5:30 PM. Cocktails are starting at 6:00 PM and then dinner and the program. They will be doing a presentation of the Phyllis Schnaible award for the outstanding student at Saucon Valley. They received about 14 applications. Mr. Horiszny said would it be appropriate for the Township to have an ad in that program? Mr. Cahalan said we do that every year with a joint ad with Hellertown Borough. Mrs. Yerger asked if we were going to do a proclamation? Mr. Cahalan said they will bring that back at the next meeting.

**General Business & Developer Meeting  
March 16, 2011**

- She said on Saturday, May 7<sup>th</sup>, the three historical organizations are going to be getting together and be holding Saucon Valley History Day from 9 AM to 1 PM. That will be open to the public. That day will also be the artist reception for the Conservancy.
- She said at the SVP meeting last week, did Mr. Cahalan said we were going to shoot for May 14<sup>th</sup> for the rail trail? Mr. Cahalan said that date came up because Upper Saucon indicated they were going to have a ceremony on that date. That's a target. We hope to have our section and Hellertown's section open by then. We can go ahead and work on something on our end and coordinate it with Upper Saucon. Mrs. deLeon said it's not for sure? Mr. Cahalan said it was just something passed on to him by the Township Manager from Upper Saucon at the last rail trail meeting. Lower Saucon and Hellertown is hoping to get the rail trail done by May 1<sup>st</sup> and will work on coordinating something to open both ends.
- She said she reported on the casino. The next meeting is Monday, March 28<sup>th</sup> at 5:30 PM. She reported before that a sub-committee was appointed to review the applications. Stephanie is using a matrix. She doesn't know about the other two members of the sub-committee. She would highly recommend that somebody from the Township attend that meeting. That way they can hear the rankings. Mr. Cahalan said he'll see if Cathy Gorman can be there. He has a rail trail meeting that night. Mrs. deLeon said it would be important for all the municipalities who have submitted applications to attend and hear how the applications are being ranked. The highest score you can get is a 110 if you have all the pieces.

**D. SOLICITOR**

- Attorney Treadwell said he was going to ask for an Executive Session, but this will be easier and faster. The bank that owned Clover View has sold the remaining lots to a new owner. As you know, we as a Township own a couple of lots in Clover View. The new owner had his engineer and some representatives here last week and they are interested in trying to sell you Lots 1 and 6. Those are the same two lots that the bank wanted to sell you. Lot 6 is the detention basin and Lot 1 has a lot of wetlands on it. They've asked if they can come to your next meeting to present your proposal. If you don't have any interest, then we should probably tell them not to waste their time. Mrs. Yerger said she's not sure about Lot 1. Attorney Treadwell said it's on the left of the road that goes in. Mrs. Yerger said that one might be worth looking at. Mr. Kern said how intriguing would the proposal be? Attorney Treadwell said the feeling he got that the new owner wants to sell it to you at is a lot higher than the price the bank wanted to sell it. He discussed that with the owners. They wanted to come tonight, but it was too late to put them on the agenda. They want to try and sell you Lots 1 and 6.

**E. ENGINEER** – No report

**F. PLANNER** – No report

**IX. ADJOURNMENT**

**MOTION BY:** Mrs. Yerger moved for adjournment. The time was 9:20 PM.

**SECOND BY:** Mrs. deLeon

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

**ROLL CALL:** 5-0

Submitted by:

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Jack Cahalan  
Township Manager

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Glenn C. Kern  
President of Council