I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, April 19, 2006, 7:07 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

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

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

Mr. Kern said Council met in Executive Session prior to this meeting to discuss personnel issues and the Stasco condemnation.

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

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

III. PRESENTATIONS/HEARINGS

A. INTRODUCTION OF FINANCE DIRECTOR – CATHERINE GORMAN

Mr. Kern said the Manager would like to introduce to Council and the residents, Catherine Gorman, Lower Saucon Township's new Finance Director.

Mr. Cahalan said Catherine Gorman is our new Township Finance Director. Martha Chase retired after 29 years. The vacancy was advertised and they received 21 applications. From that group, Cathy was clearly the best candidate with her qualifications and experience. She's a township resident, lives close by and is a graduate of DeSales University. She was previously employed in Hellertown as the Finance Director there for five years and since 2004, she's been the Secretary/Treasurer at Nockimixon Township. He thinks she is a perfect fit for the Township administrative team. She started the other day and dove right in. She'll be a great asset to the Township. Council welcomed Cathy Gorman. Cathy said she thanks them for the opportunity and she is looking forward to it.

B. PUBLIC HEARING – ORDINANCE #2006-01 – COOK'S CREEK WATERSHED PROTECTION OVERLAY

Mr. Kern said Ordinance 2006-01 has been prepared and advertised to consider adoption of an amendment to the Zoning Map by designating and including thereon the Cook's Creek Watershed Protection Overlay Area.

MOTION BY: Mr. Maxfield opened the public hearing.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Attorney Treadwell said this is an amendment to your zoning map. Mr. Birdsall said the existing zoning ordinance and the existing zoning map have watershed protection areas on them that overlay other zoning districts. The watershed protection area is primarily for establishing regulations on facilities that can be built or land uses that can occur within these areas to protect groundwater from potential pollution sources. They are established in areas where we knew there was groundwater being used for public water supply so the existing map had already protected the watershed well head area for Hellertown wells and the Springtown springs. The study of the Cook's Creek Watershed, one of the early reports issued by their advisory group, showed there was another public water supply that had not been protected by LST in the upstream watershed and that is known as the Cook's Creek Watershed. The township took immediate action to start the process of amending the map to provide for protection of that groundwater condition in that watershed and that's what this map change is doing and it has gone to the PC and the LVPC.

Attorney Treadwell said they have both looked at it and it was the LVPC that recommended adoption.

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

MOTION BY: Mr. Maxfield moved to adopt Ordinance 2006-01.
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

C. PUBLIC HEARING – ORDINANCE #2006-04 – PARTICIPATION IN THE MUNICIPAL RISK MANAGEMENT WORKERS' COMPENSATION POOLED TRUST

Mr. Kern said Ordinance 2006-04 has been prepared and advertised for a public hearing to consider the adoption of an ordinance authorizing the Township's participation in the Municipal Risk Management Workers' Compensation Pool Trust as required by the Trust Agreement.

MOTION BY: Mr. Horiszny opened the hearing.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Mr. Cahalan said they are putting this before Council to do some housekeeping that we needed to do. We've been in the municipal trust for workers' compensation and one of the items that has to be done in order to join that was to have Council adopt an ordinance for participation so we're asking Council to adopt the ordinance 2006-04 to do that.

Mrs. deLeon said on section 2 where it says the duration of the term is four years. What happens after four years? Mr. Cahalan said we'd have to readopt our ordinance. She said on Section 5, it says the funds for meeting the obligations of LST under the agreement shall be appropriated from the general funds of the Township, is that already included in our budget? Mr. Cahalan said yes it is, under Workers' Compensation – Insurance.

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

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

Mrs. deLeon said on page 1 of Exhibit A, could someone explain the first paragraph. It goes on to say for all purposes of indemnifying itself against liability for certain coverage's mandated under the PA Workers' Comp. Act. Attorney Treadwell said this is the trust agreement that everybody who enters into the municipal risk management workers' compensation pool agrees to sign and that article talks about indemnifying the actual pool from the requirements of the workers' compensation act and the PA Occupational Disease Act. Mrs. deLeon said that means the employee can't go back to the pool, they'd just go back to the individual employer. Attorney Treadwell said correct. Mrs. deLeon said on page 1 under definitions, Actuary, it says "the actuarial firm or individual firm selected by the Trustees", who are the Trustees, is that the pool? Attorney Treadwell said the trustees are the pool. Mr. Cahalan said they are elected by members of the trust. The Board of Trustees are selected in accordance with the trust agreement and bylaws. There's an annual election of the members of the trust and actually there is an annual conference where you can attend and vote on that election or you can submit a proxy vote. They are members of the trust of the municipal government. Attorney Treadwell said it's actually on page 6, Article III, where it talks about qualifications of a trustee, an elected or appointed official of a participant or an employee of a participant with expertise in finance or risk management. Council would have to agree as to who the trustee would be.

MOTION BY: Mr. Kern moved for adoption of Ordinance 2006-04.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

D. <u>PUBLIC HEARING – ORDINANCE 2006-05 – AMENDMENT TO THE EMERGENCY AND MUNICIPAL SERVICES TAX</u>

Mr. Kern said Ordinance 2006-05 has been prepared and advertised for consideration of adoption to amend Chapter 150-36 of the code of LST by removing the authorization for employers to collect a 2% commission relative to the collection of the Emergency and Municipal Services Tax.

MOTION BY: Mr. Maxfield opened the hearing.
SECOND BY: Mr. Horiszny

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

ROLL CALL: 5-0

Mr. Kern said the language that was in this tax when it was in its previous state as the Occupational Privilege Tax allowed employers to deduct a commission to collect the tax. It was felt that was something which was not necessary any longer when it converted to the Emergency Municipal Services tax. This language was removed with reference to the 2% commission.

Mrs. deLeon said as an employer in the township, they already received their quarterly EMST and it does not include the 2% anymore because we took it out. Attorney Treadwell said technically the ordinance would not become effective until five days after today. Mr. Cahalan said the notice went out with minus this language.

MOTION BY: Mr. Horiszny closed the hearing.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone in the audience had any questions or comments?
ROLL CALL: 5-0

MOTION BY: Mr. Maxfield moved to adopt Ordinance 2006-05.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? Mrs. deLeon asked what the 2% commission is going to be as revenue to the township? Mr. Cahalan said it's actually 2% that the employer would be able to keep. It depends on the number of employees that they would be deducting the tax for. Cathy Gorman will go back and see what it was last year.

ROLL CALL: 5-0

E. <u>DRAFT RESOLUTION FOR TEMPORARY BURNING RESTRICTION DUE TO DROUGHT CONDITIONS</u>

Mr. Kern said due to the current local and statewide drought conditions, the township is experiencing, the Fire Marshall and Chief's of the Township fire companies have requested the township to adopt a temporary burn ban to protect the health and safety of township residents and the environment. If adopted, this resolution would permit the Township upon the recommendation of the Township Fire Marshall, to adopt a temporary burning ban that would be reviewed on a monthly basis by Council and lifted as conditions permit.

"LOWER SAUCON TOWNSHIP
RESOLUTION #33-2006
AUTHORIZING A TEMPORARY BURN BAN

WHEREAS, there is no Ordinance enacted in Lower Saucon Township, (hereinafter the "Township") prohibiting open burning; and

WHEREAS, the Pennsylvania Department of Environmental Protection (hereinafter the "DEP") has issued drought warnings that are applicable to the Township and the extended drought has created emergency fire conditions; and

WHEREAS, recently a fire occurred in the Township that involved a large area of land; and

WHEREAS, Council is responsible for providing for the health, safety, and welfare of the people of the Township and protecting them from the dangers and threats of uncontrolled fires and unsafe fires; and

WHEREAS, Council determines that environmental concerns and the public health, safety and welfare of the Township and its residents requires temporary regulation of the outside burning at this time of drought; and

WHEREAS, the Fire Marshal has reviewed the within Resolution and agrees that a temporary ban is in the interests of protecting the residents and their property, as well as protecting the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Ron Horiszny, Tom Maxfield, and Sandra Yerger, hereby resolves as follows:

1. The foregoing WHEREAS clauses are incorporated herein by this reference the same as if set forth more fully again.

2. It shall be unlawful for any person, corporation, partnership, association or other entity to cause, allow or permit open burning upon any land in the Township, public or private and including private roadways and drives:

   A. Definitions: Open burning is defined as the ignition and subsequent burning of any combustible material (garbage, leaves, grass, twigs, litter, paper, vegetative matter involved with land clearing, or any sort of debris) out-of-doors in either a burn barrel, (screened or unscreened) fire ring, or on the ground. The use of propane or gas stoves, charcoal briquette grills, or the use of tobacco in any form is not covered under this temporary ban. This Temporary Ban shall not be construed so as to prohibit burning in a suitable container or pit for the sole and express purpose of cooking or barbequing food.

   B. Bonfire at school and/or community organization or neighborhood sponsored activities are prohibited. If the organization wishes to request a review of the plan, it must submit information in writing regarding the location and nature of the planned activity, and a contact person, at least two weeks in advance to the Fire Marshal. The Fire Marshal, in his or her sole discretion, may take any action deemed to be in the best interests of the Township, including rejecting the plan or amending the plan. The Fire Marshal is not under any duty or obligation to issue any written opinion or any written recommendation.

3. Duration: The burn ban imposed is temporary and shall be reviewed by Council monthly at its regularly scheduled meeting. The temporary ban shall remain in effect until the Township Manager or his designee, upon the recommendation of the Fire Marshal, Emergency Management Coordinator and State Forest Fire Warden, determines that the risk of fire due to the severe drought conditions has abated to a safe level. THIS Temporary Burn Ban IS IN EFFECT UNTIL OTHERWISE RESCINDED.

4. This Temporary Burn Ban shall not be construed so as to amend the Township ordinances, including but not limited to the Township Fire Protection Code, regulating conduct which may affect the health, safety and welfare of the Township and others, all of which ordinances shall remain full effect. This Resolution shall not be construed so as to suggest any liability of and by the Township for acts or omissions of private persons and entities.

5. Any person, corporation, partnership, association or other entity who violates this Temporary Burn Ban shall be liable to proceedings for enforcement to the fullest extent permitted under all applicable law. The Township Police Department and other code enforcement personnel designated by the Council shall have authority to investigate alleged violations. Upon a determination by the Police Department or other designated code enforcement personnel that a violation has occurred, a citation shall be given to or served upon the violator(s) and an action for enforcement instituted in the District Justice Court having appropriate jurisdiction in accordance with the Pennsylvania Rules of Criminal Procedure governing summary violations. Upon entry of judgment in favor of the Township and or the Commonwealth in such enforcement action, said judgment shall include a fine plus all court costs and all attorney fees incurred by the Township, including all appeals taken by the violator. Each day a violation continues it constitutes a separate offense. The following fines shall apply for violation of this resolution:

   (a) First Violation: $100.00
   (b) Second violation: $200.00
   (c) Third violation: $300.00

   In addition to the above prescribed fines the violator(s) shall be responsible for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by, or resulting from, any violation of these sections.

6. If any section, subsection, sentence, clause, phrase or portion of Resolution or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of the Resolution or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect.

7. No Ordinances or parts of any Ordinances are repealed by this Resolution.

8. The Township Manager or his designee is authorized to take all actions that are deemed reasonably necessary to carry out the intent of this Resolution, which may include but not necessarily be limited to the following: to ensure publication and distribution of this Temporary Burn Ban to appropriate media; to coordinate the enforcement of this ban with appropriate law enforcement agencies; to take any action needed to coordinate response to the dangers posed by the unusually dry conditions; and to take any other emergency management action deemed necessary to respond to this threat to the health, safety and welfare.

ADOPTED and ENACTED, this 19th day of, 2006.

Dave Edge, Southeastern Fire Company and Lynn Keck from Leithsville were present. Mr. Cahalan said the fire chief's have asked the township, to do what they have done in the past, when there were drought conditions. What they found out, since the Township doesn't have a burning ordinance, which contains a temporary burn ban, we have to defer to Northampton County to put the burn ban into effect. Now we are in a drought statewide. In order for the County to enact the burning ban, they would have to receive a recommendation from the District Forester requesting the burning ban. They were looking to see if they could put something in on a temporary basis. Last week there was a fire that involved all four companies as the conditions are dangerous out there. Attorney Treadwell drafted a temporary burning ban resolution that could be put into effect by Council. It mentions that the Township Fire Prevention Officer would be the one making the

recommendation and they probably would make that the Fire Marshall to make the recommendation to the township, and then, it would go to the Council to enact the temporary burn. The duration could be done several ways. It could be until the next Council meeting or it could automatically terminate or it could be until the Dept. of Natural Resources reduced the forest fire danger to a rating below high.

Mrs. deLeon said this is good to have. We do not have a Township Fire Prevention Officer, so it has to be the Fire Marshall. Mr. Horiszny said we should also add the Emergency Management Coordinator. Mrs. deLeon said in no. 5 it talks about the Board of Supervisors, it should be the Council of the township. In no. 8, she's uncomfortable with "Appropriate Township Staff". It should be more specific and say "the Manager or his designee". Her next question would be the violation. We have to decide on that. It was decided that 1st offense would be $100, second offense would be $200 and third offense would be $300. There may be someone that doesn't read the paper or look at the website, so they should be given a warning for the first time, as that may be a different situation. Mrs. Yerger said we could take out a Public Service Announcement and put it in the newspaper. Mr. Cahalan will take care of that.

Mr. Cahalan said the Fire Marshall sent some recommendations, and in addition to a fine, would be to add the cost of putting out the fire on the penalty. Council liked that idea.

Mr. Maxfield said under definitions where it says "open burning", burn barrel screened or unscreened, he thought last time there was a burn ban in the Township that anything confined in a barrel was not open burning. Attorney Treadwell said this language came from a DEP regulation as to how they defined open burning. The nuisance ordinance is an ordinance, this is a temporary resolution. Mr. Kern said it would probably be wise not to burn in a barrel during drought conditions. Mr. Maxfield said "duration", he wrote every two weeks, which would be a Council meeting. When this stretches into the summer, we only have one meeting a month. Attorney Treadwell said you could review it at each next scheduled council meeting. Council decided no burning in a barrel would be allowed during drought.

Attorney Treadwell said under no. 3, duration, the last sentence where it says "NOTED", change to "RESCINDED".

Mr. Horiszny said on the fourth WHEREAS, Council is desirous, change "desirous" to "responsible for".

Dave Edge, Southeastern Fire Company, said regarding the termination, his fear would be if you put it into effect temporarily and then make it contingent on a meeting of Council, like you said, if you miss a meeting, then it continues and continues. If it rains four out of five days, how are you going to tell a guy you can't burn because Council hasn't met yet? There are other mechanisms that monitor drought conditions. That information is readily available on a website. If the forest fire danger in a given zone falls below what they consider high, it is probably safe to burn. Mr. Kern said how would we know that? Mr. Cahalan said it would be through the Fire Marshall or District Forestry.

Lynn Keck, Chief, Leithsville Fire Company, also State Forest Fire Warden for LST, said he gets daily updates right from the district office in Valley Forge and Ebensburg. He had a report at 8:30 AM this morning from the forestry patrolmen about the dangers, which are extremely high today. This afternoon he was warned by the inspector that Norfolk Southern was grinding track down through Steel City. He gets the reports almost on a daily basis before Northampton County gets them up in the Comm. Center. Mr. Keck said he would be willing to give a direct communication to the Manager. Talking about charging for the fires, DCNR, bills for everything. They take a report from the fire companies and if he deems it a nuisance fire, those are the ones he goes after.

If it's someone who it's a simple accident, once in a lifetime, he doesn't want to hammer somebody. The bill produced for last week in Leithsville is going to be pretty hefty as it was 12 companies total and manpower. The property owner and person who caused the fire are aware they are going to get a bill from the Department of Conservation and Natural Resources. DEP has a sample ordinance for open burning. Attorney Treadwell said they have that and it's open burning throughout the township, whether or not it's a drought condition or not. Mr. Keck looked through it and it doesn't handcuff our residents, but it would give us something we could fall back on and yearly we wouldn't have to come back to the Council and say something. All the Fire Chief's and the Fire Marshall could make the decisions, and right now, it's unnaminous. It's not handcuffing people who burn their household waste, it's not handcuffing guys on construction sites that burn up their waste from clearing land, but it is giving the township some bite if someone messes up.

Mrs. deLeon said if we were to go into the draft and amend that we aren't going to wait until the next council meeting, which could be five or six weeks in the summer, so we need to change it. It's really a Manager's decision based on input from the State Forest Fire Warden and the Fire Chief's. Attorney Treadwell said we can put that in Section 3, the duration section.

Ms. Stephanie Brown said she's been burning trash her whole life. She grew up doing it. One of the issues needed to be brought up, is she burns in a barrel and tries to be very careful. She'd like to see burning in barrel with a screen be allowed as it was mentioned. If she sees it is going to rain, she waits until it rains or it is raining. Mr. Edge said he too burns, but he would not recommend burning in a barrel in a drought condition. They've seen plenty of fires. You make an exception for somebody; you have to make it for everyone. Drought conditions would be temporary, at best, and the people could just save it up until it rains. Even if the burning ban goes into effect today and it's raining on Saturday and she burns her trash, who's going to stop her? Mr. Keck said last year during dry conditions, they had a person burning in a barrel and wind came up and picked up a piece of trash and burned between six houses. Whether it's in a barrel or not, it should not be allowed. Ms. Brown said she's seen many townships put a sign up coming into the township and it says "there is a burn ban in effect", and people would definitely notice that. Mr. Kern thought that was a good idea.

In summary, changes are:

- Page 1, Fourth WHEREAS, change "desirous" to "responsible for".
- Throughout the document, change "Fire Prevention Officer" to "Township Fire Marshall, Emergency Services Coordinator, and Forest Fire Warden".
- Page 2, No. 3, last sentence "NOTED" should be changed to "RESCINDED BY TOWNSHIP MANAGER OR HIS DESIGNEE".
- Page 2, No. 4 fourth sentence, "Board of Supervisors" should be changed to "Council".
- Page 2, Section 5(a), 1st Violation $100, 2nd Violation $200, 3rd Violation $300.
- Page 3, adding the costs of putting out the fire.
- Page 3, No. 8, instead of "Appropriate Township Staff" the "Township Manager or his designee".

MOTION BY: Mrs. deLeon moved to adopt Resolution No. 33-2006 based on the additions and corrections as stated above.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 5-0

This temporary burning ban goes into effect immediately.

III. DEVELOPER ITEMS

A. WILLIAM HAYES – 2173 ROSE LANE – REQUEST COUNCIL DIRECTION WITH SEPTIC SYSTEM ISSUE

Mr. Kern said William Hayes would like to discuss with council the situation regarding his septic system that was damaged during Hurricane Ivan when a tree fell and punctured the system. He would like further direction from Council because one of the conditions Council requested was that his neighbor enters into a Hold Harmless Agreement and the neighbor has indicated they are not willing to do that.

Christopher Noll, Project Manager, Keystone Engineering, and Mr. William Hayes, owner, were present. Mr. Noll said they reduced square footage by 40%, which was allowed with the eco flow to make everything fit into that corner. He's been through a few of those training courses with DEP and the well was always the taboo to never encroach on the well. In a repair situation with an eco flow, the guidance that the operative word was "maximized to the full size system". That's where the discrepancy came into play. We talked about encroaching on the well to get to the full size system as they'd have to pull it back from the property lines. The neighbor understands the whole situation, however, he feels asking him to indemnify, it isn't his problem. That's why they are back in front of Council. The two issues are encroachment on to Riefenstahl's property of about four to five feet where the berm ties into the bank next to his driveway, but the issue is the encroachment into the right-of-way along Reservoir Road. With the berm tucked in there, they are still going to encroach into the right-of-way by about four or five feet. The first encroachment is in the neighbor's yard for four or five feet. Attorney Treadwell asked if they had the neighbor's permission to encroach? Mr. Noll said yes, they have it in writing. They are in front of you tonight because of encroaching into your right-of-way.

Mr. Birdsall said are you saying with the reduced footprint, you'll be more than 100 feet from his well or will you still need the wavier you got last week? Mr. Noll said no, they will need the 100 foot isolation. Mr. Birdsall said issue no. 2, the right-of-way of Reservoir Road, is that the typical 16 ½ or is the property line quite a bit further back from the typical 16 ½ feet? Mr. Noll said you can see from the edge of the pave, it's about 20 feet to the right-of-way line. Reservoir Road, by the deed, is indicated as a 46.5 feet wide road. Mr. Birdsall said it's probably 23 away from the center line depending on how the road waffles there. Can you state that the four foot encroachment will not encroach into the 16 ½ feet? Mr. Noll said that's not a problem. Mr. Birdsall said there is a drainage pipe coming under Rose and then coming out at that point, does any of your fill come into a point where it actually would block the flow of the storm water coming out of that pipe? Mr. Noll said no, that's why one of the reasons he went with the eco flow was to eliminate the sand so the berm wouldn't encroach and block that. There's a swale and a low point in there.

Mr. Birdsall said to summarize, the waivers that were given last week can be rescinded. The one thing you are looking for this evening is permission to put some of the fill tapering down to zero within the township right-of-way, but no closer than 16 ½ feet from the center of the road. Mr. Birdsall has no problem with that. Attorney Treadwell has no problem. Mr. Noll said Mr. Hayes is still willing to do the hold harmless agreement with the township, which is stated on the plan.

MOTION BY: Mrs. deLeon moved to rescind the waivers given to the applicant on April 5, 2006.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Mr. Birdsall said the wavier that was granted of April 5 is rescinded and permission is granted to encroach four to five feet with the tapering of the slope of the drain field into the right-of-way of Reservoir Road as long as it does not encroach any closer than 16 ½ feet to the center line of the township road, and that be conditioned upon the applicant signing a hold harmless agreement satisfactory to the Township Solicitor.

MOTION BY: Mrs. deLeon moved regarding the encroachment issues on Reservoir Road as stated above by the Engineer.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

B. <u>ZONING HEARING BOARD – MIROSLAW MICHALAK – 2020 SANBROOK DRIVE – VARIANCE REQUEST FOR RELIEF OF IMPERVIOUS COVERAGE LIMITS TO INSTALL POOL</u>

Mr. Kern said the applicant is proposing to construct an in ground pool and associated patio and landscaping which will exceed the impervious coverage. They are proposing 28.5% (25% is allowed). They are also proposing to encroach 21' into the required 40' rear yard setback.

Mr. Miroslaw Michalak, applicant, and Mr. Ray O'Donnell, his neighbor, were present. Mr. O'Donnell said this is somewhat a revised plan. What has changed is he's willing to make the pool slightly smaller, 16' x 30' and a 50% reduction of the rear wooden deck. That's pretty much the changes Mr. Michalak is willing to make at this point. Mr. O'Donnell said there is a natural swale on the corner that he could redirect the down spouts to and the plumbing to the pool that would enter into Mr. O'Donnell's property where there's a natural farm swale and that brings the water down to the next block naturally. He wants to get a long with everyone and they want to do the right thing.

Mrs. deLeon said the changes that are made, do they need an amended application? Attorney Treadwell said yes, they would. It is scheduled for the ZHB on April 24. The amended application would start their 60 day clock all over again. If they amend the application as they represented tonight, he doesn't think our Zoning Officer would have a problem. It would just be an amendment to the existing one. It would show 50% of the deck removed and the smaller pool size.

Attorney Treadwell said your last position was to oppose it. They've come back now and said they are willing to revise it, so you can continue with your motion to oppose it unless they file a new application showing the smaller pool size as represented tonight and the removal of 50% of the deck. If they agree, you don't take a position.

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

Mr. Maxfield said if they do follow the conditions as stated, that would result in us taking no position. Attorney Treadwell said correct. They can call the Zoning Officer tomorrow morning and he can help them with the timing and what needs to be filed.

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

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

"STAFF RECOMMEDANTION FOR
REJECTION OF THE PRELIMINARY MAJOR SUBDIVISON PLANS OF
CHAFFIER, THOMPSON & FILER PROPERTIES FOR
APRIL 19, 2006 LST COUNCIL MEETING

The staff of LST recommends that township council reject the preliminary major subdivision plans of the Chaffier, Thompson and Filler properties (twp. File no. Maj 03-04).

It is recommended that the plans be rejected because they do not comply with various requirements of township ordinances and review agencies as descried in the following correspondence, copies of which are attached.

1. Letter from HEA to Jack Cahalan dated August 3, 2004 and reviewed January 12, 2006.
2. Letter from HEA to the PC dated August 3, 2004 regarding carbonate geology issues.
3. Letter from HEA to Ms. Susan D. Menno, R.L.A. dated August 9, 2004.
4. Letter from HEA to the PC dated December 9, 2004, regarding traffic issues.
5. Letter from Boucher & James to Jack Cahalan dated August 2, 2004.
6. Memo from LS PD to Molly Bender, dated July 29, 2004.
7. Letter from Se-Wy-Co Fire Co. to LST zoning department dated August 2, 2004.
8. Letter from EAC of LST to Ms. Priscilla deLeon dated August 17, 2004.
9. Letter from HEA to Jack Cahalan dated November 18, 2004 regarding utility review.

No resubmission of plans or supporting documents has been made to the township to these review letters during the entire year of 2005, or until the present.

It is also recommended that if the council is acting on this recommendation, council authorize the township manager to notify the applicant of council's action by certified mail."

Attorney Treadwell said in January the applicant requested and the township agreed to a 90 day extension which expires on May 1. This afternoon at approximately 3:30 PM, the township received what the applicant has termed as, revised plans, along with another 90 day extension request. The 90 day extension was not in the format that the township typically utilizes.

Attorney McCarthy and Gia Raffaelli, In House Counsel for Heritage were present. Attorney McCarthy said earlier today he was at the township to deliver the revised plans for the major project. He also delivered a letter directed to Jack saying that since we are submitting revised plans, by operation of law under the MPC, the township automatically gets an additional 90 days. In addition to that, or even though that's there, we also, just to keep the file clean, submitted or granted a 90 day extension to the township. We understand that the plans just came in this afternoon and nobody has had a chance to look at them. There is not a need for Council to take action tonight because the time period isn't going to be expiring any time soon. They ask the township review the revised plans and we look forward to receiving their feedback.

Attorney Treadwell said before Council comments, the Staff's perspective is that the plans that the applicant gave an extension to were plans that were filed approximately a year and three months ago. Staff just did receive them this afternoon at 3:30 PM. We do not know what is in that planned set. We can't tell you tonight if they are revised plans as the applicant represented or if they are plans for a completely different project. They need to look at that and get back to the applicant and there is also not been time to do an administration completeness review to see if everything that we require is actually in the submission.

Mrs. deLeon asked what would the date be for the 90 days? Attorney Treadwell said it would be July 30 as this extension runs out May 1, 2006. Under this 90 days request, Council would have to take action at the very latest, your July meeting. That does not mean you could not take action earlier if you are ready. The applicant agrees with July 30, 2006 and will sign the regular form from the Township as opposed to the one they submitted. That will be done tonight.

Attorney McCarthy said the standard township form talks about an extension being approved by the township. Our view of the law is that township doesn't approve extensions. The applicant agrees to extensions. The reason we changed the form was to make it consistent with our view of the law. In any event, if we're all under the understanding that the extension is until July 30, 2006, we're happy to sign the township forms.

MOTION BY: Mr. Maxfield moved to accept the 90 day extension, and be clear that the extension is attached to the previous plan that was submitted and it is not reflective of any recent submissions until review for consistency and completeness by LST administration.

SECOND BY: Mr. Horiszny

Mr. Kern asked if anyone in the audience had any questions or comments? Attorney Treadwell said your motion is to grant a 90 day extension until July 30, 2006, but it's an extension of the submission that the Township had prior to today and that the new plan that was submitted at 3:30 this afternoon still needs to be reviewed for completeness and also to determine if that plan is, in fact, a reviewed plan submission or if it's a new submission. We don't know yet whether it's complete as no one has looked at it yet, and whether it is actually a revision of the old plan to meet the township engineer's comments or it's an entirely new plan. Attorney McCarthy said he can appreciate that. Attorney Raffaelli said they would like to make a representation to you as the builder and applicant, that it is a revised plan of the Chaffier/Filler/Thompson major subdivision plan that was before you in the past. The revisions we have made to those plans are directly related to our meetings with the Township staff, responses to engineer comments, and review letters we received. Attorney Treadwell said you may be correct, but we have to look at it first. Mr. Birdsall said Linc used the word "grant of extension" would council grant or just accept? Attorney Treadwell said we recognize that the applicant has offered an extension and he understands their position regarding the MPC, but it's always been the practice of LST to approve it, in writing, so everybody knows what it is. Mrs. deLeon said these packets go out and we received all the information and she had a stack of review letters to look at. She took the time to reread the letters. She tries to put herself in the applicant's position and she hardly ever puts herself in the developer's position, but as an applicant, she doesn't understand why there are so many outstanding conditions. She's hoping this revised plan addresses some of these. The property owner hired you to fulfill and to look at our ordinance and comply with them. Your sewer reservation, you have how many units? Attorney Raffaelli said they'd like to give Council an opportunity to look at the revised plans, but what she recalls about the reservation was about sewer. Mrs. deLeon is talking about the existing plans that HEA already reviewed and issued a letter. Attorney Raffaelli said there are 40 of them out of 52 that they requested. Mrs. deLeon said the plans are presenting how many units? Attorney Raffaelli said 51. Mrs. deLeon doesn't understand how you can have sewer reservation for 40 and then present plans contrary to what you have, how are you going to accomplish that? Attorney McCarthy said at the time, it was awhile ago, there was a process under the resolution governing reservation of EDU's that allowed some discretion or allocation depending on the actual or anticipated development in a given area. At the time, we could reserve clearly 40 and the balance that was needed was at issue, and under the ordinance, it was a function of actual or anticipated development in that area. It's been awhile since he's looked at it, but it's an issue that has to be addressed among several others. Mrs. deLeon said we approved that already at 40 and you are paying on the 40 units? Attorney McCarthy, said yes. Mrs. deLeon said how could you be approved for one number and have a

whole bunch of plans at the expense of the applicant. She said carbonate geology, there were some issues on that. Attorney McCarthy said those issues have been addressed in the revised plans. In the initial comment letters from the Township, they set some pretty high hurdles for Heritage. Heritage really has met all of them. They were big and complicated issues and expensive issues. You will be pleasantly surprised when you see the revised plans how much progress they made to address the list of things the township wanted. One was moving away from the fracture trace, another was improving access, another realigning roads, another was moving PPL lines. All this has been happening behind the scenes.

Attorney Treadwell said he doesn't necessarily agree with the characterization as "it's what the township wanted", "it's what the township ordinance required". Mrs. deLeon is looking forward to the revised plan, which addresses a lot of these issues. Mr. Maxfield said the hurdles you alluded to are not really hurdles, but they were there in the ordinance. All those conditions you are aiming for were there, they didn't impose anything other than what the ordinance called for in the very beginning. Mr. Kern said it's been clearly stated several times. Attorney Treadwell said to reiterate, it was the applicant's decision as to the number of units that they would like to build on this property. Obviously, if the number of units wasn't as large as what they proposed, some of those ordinance provisions could easily be met.

ROLL CALL: 5-0

D. <u>ANDREW WARNER – 2472 & 2478 BLACK RIVER ROAD – LOT LINE ADJUSTMENT</u>

Mr. Kern said the applicant has requested to come before Council to request a lot line adjustment. The plan proposes to relocate a shared boundary line to reduce the depth of the eastern lot and to create a larger flag shaped lot. No development is currently proposed on the western lot.

"STAFF RECOMMENDATION FOR
WARNER LOT LINE ADJUSTMENT PLAN FOR APRIL 19, 2006
LST COUNCIL MEETING

The LST Staff recommends that the township council approve the Warner lot line adjustment plan prepared by Gilmore & Assoc., Sheet 1 of 1 dated revised April 3, 2006, subject to the following conditions:

1. The applicant shall address the review comments contained in the letter dated April 12, 2006 from the township engineer, HEA to the satisfaction of the Township Council.
2. The applicant shall address the review comments contained in the letter dated April 7, 2006 from the Township planner, Boucher & James, to the satisfaction of the Township Council.
3. The applicant shall pay any outstanding escrow balance due to the township in the review of the plans and the preparation of legal documents.
4. The applicant shall satisfy all these conditions within six months of the date of conditional approval of this plan or the application shall be considered to be withdrawn by the applicant and therefore null and void."

Andrew Warner, Applicant, and Scott Muller from Gilmore & Associates were present. Mr. Muller said since two meetings ago, they made revisions to the plans based on both recommendations in the Boucher & James letter and HEA letter. Going through the Boucher & James letter, April 7, 2006, no. 1, Use & District Regulations. It references the minimum side yard requirement of 30 feet. The existing dwelling on the eastern lot encroaches into the required yard. However, because the existing side yard has not changed this is considered an existing non-conformity. This is just an informational comment.

Mr. Muller said no. 2, General Requirements, that is an informational comment regarding surface parking areas and/or structures, excluding access driveways, are subject to the required setbacks to the zone wherein the facility is located. This permits one parking space to be provided within the front yard of the dwelling unit. The existing parking area containing two parking spaces is located within the required front yard. One space is permitted in this location by right, the second permitted as an existing non-conformity.

Mr. Muller said no. 3, there are two comments. (A) deals with site capacity calculations. The calculations demonstrate that 1.89 dwelling units would be permitted on the site. However, since two lots of record currently exist and the current submission is for lot line change to amend the location of the line separating the two lots, it appears that both lots would be permitted. We recommend the lots be deed restricted to prevent further subdivision of either of the lots as any increase in the number of lots would clearly not be in conformance with the site capacity calculations. The only issue he has is if they would deed restrict the parcel that is not developed. If that ever became part of a subsequent subdivision down the road of a neighboring parcel that is vacant, and they go to subdivide something and there's a note on the existing lot stating it can't be further subdivided, you are going to have a hurdle and have to go through site capacity calculations no matter when you do a subdivision. Right now, yes, this one lot can't be subdivided per your ordinance and per your site capacity calculations. There's no need to further deed restrict it from being subdivided. The ordinance is already preventing it from being subdivided. Attorney Treadwell said he would agree with that. They can't put any more than one unit on it anyway unless they come back and that it meets whatever site capacity calculations are at that time.

Mr. Muller said item 3B, states the requirements that apply to proposed uses in the carbonate geologic areas. Plans have been revised to include a note indicating that any studies would be provided at any time that any developments or improvements are proposed for lot 1 or lot 2. The note indicates that the requirements would be met with land development plans. They recommend the township require that the carbonate geology study and conformance with Zoning section 180-95.17.c be made a part of any permit for any proposed improvement on either lot. They don't have a problem with that at all.

Mrs. deLeon said for the staff recommendations where it refers to the Boucher & James letter, is it a condition or a statement. She wants it clear to the applicant what the outstanding issues are, to her who is making the approval here and to a neighboring resident who wants to come and look at these letters. So No. 1 and 2 are statements. Mr. Muller said 5 and 6 are added to the plan in reference to the statements. One states the existing dwelling on lot 2 encroaches on the required setback. They are reiterated on the plan.

Regarding the April 12, 2006, HEA letter, Mr. Muller said statement A1, is just an informational comment, based upon the resubmission of the letter from Boucher & James, it appears the plan is consistent with the zoning requirements and would qualify as a type b minor subdivision plan as defined by section 145-15.

Mr. Muller said item 2, the applicant has provided a delineation of the floodplain and riparian corridor, but has not provided any information about the riparian corridor crossings and/or carbonate geology feature investigation or mitigation as recommended in our March 7 letter. Again, they put a note on the plan stating we are not doing any improvements. We do not have a crossing of the riparian corridor proposed at this time.

Mr. Muller said no. 3 deals with note 1. Note 1 has been added to the plans indicating that no development is proposed or approved as part of this plan and that at the time of development of either of the lots, land development plans must demonstrate compliance with township zoning ordinance section 180-95.17.C regarding requirements for the carbonate geology study. While

this note is helpful, the applicant may not be required to provide land development plans if only a single family home is constructed on lot 1 or if only minor additions are made to the existing house on lot 2.

Mr. Muller said item B1, they did receive a letter from the LVPC. Mr. Birdsall said they did receive it and it's dated April 18, 2006 and is a clean bill of health.

Mr. Muller said item B2, is just plan clean up and sign the surveyor certification that all corner monuments and pins have been set and shall be provided prior to the signature for the final plan. That's not a problem.

Mr. Muller said item B3, is owner and surveyor certification shall be executed on the plan.

Mr. Muller said item B4, the applicant shall verify to the satisfaction of the township solicitor that the deeds for each adjusted property will be prepared with a description encompassing the entire revised parcel for each adjusted lot and will be signed by the appropriate owners and will be recorded immediately after the recording of the plan. It's not a problem.

Mr. Muller said item B5, the applicant has not delineated an easement for the protection of the natural stormwater flow from upstream across lot 1. The applicant instead has added note 4 to the plan which states "the owner(s) of lot 1, their heirs, successors, and assigns must provide a storm water drainage easement across lot 1 for the conveyance of upstream storm water flow which crosses the site in the pre-development condition. They had talked with HEA's office earlier regarding this and instead of putting an easement in place somewhere now on lot 1, when it comes through for development with grading, you then put the subsequent easement following those drainage swales when you go through land development. To put one on there now, it might change when you go to try to do your grading plan. It's kind of pointless to put an easement on the plan, however, they are saying if anyone does develop lot 1, they do have to provide an easement for a crossing that property with existing storm water.

Mr. Birdsall said his concern with all these is that any typical subdivision would have to do all of these things up front. The only reason that we may want to consider some relief on these issues is because it's already two lots of record and it's not increasing the number of lots of record. As an accommodation, there are reasonable compromises here that you can back away from the hard language of your ordinance since it is only a lot line adjustment. As long as we are legally tied up with the development or permits on any of these lots triggering the other requirements, he's okay with it and so is Attorney Treadwell.

Mr. Muller said as the plan stands before you tonight, the only thing that is going to change on it before it gets signed is the pins being placed out on the lot and the revision of note 1 to add the clause in there about any improvements that are going to be done to lot 1. Mr. Birdsall said no. 4 has to be better clarified with regard to the dedication of the easement or lease providing in the easement. That would include earth disturbance. Mr. Muller said they can revise note 4 however HEA seems fit.

Mrs. deLeon said it would be a lot easier if we had bullets in the staff recommendation, but now we're asking our professionals to amend a letter that already went out. Mr. Maxfield said we just have to remove the paragraph that says "however". Mrs. deLeon said but you are referring to a professional letter with a date. Mr. Birdsall said that's the purpose of council input if you don't like something in our recommendation. That's her problem with how this is being done. Now we have to add 5 on the staff recommendations. No. 5 would say "paragraph 2 in item 3A of the Boucher & James letter dated April 7, 2006, is deleted".

MOTION BY: Mrs. deLeon moved for approval with the staff recommendation with five conditions for the Warner Lot Line Adjustment dated April 19, 2006 and include the changes to the two letters.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

E. MEADOWS SUBDIVISION – MEADOWS ROAD – TOLL BROS. – MINOR CHANGE REQUEST TO CATCH BASIN

Mr. Kern said the developer has requested a minor change in the plan to the catch basin. Jim Birdsall will review with Council.

Mr. Birdsall said there is a letter from the developer dated February 20 and an attached drawing which shows as you come in Stover Road from Meadows Road and you start up the hill to the subdivision, on the left hand side there's an existing house right on Meadow's Road. Behind that house is a swale and a low point at the rear of lot 23. That was all shown on the original approved plan. A pipe extension out to that lot was shown on that plan to help collect water. What the developer would like to do is improve the catch structure and change it to a grate to make it a little bit safer and make it a little bit neater with the property and HEA supports that minor change.

MOTION BY: Mr. Kern moved for approval of Meadow's Subdivision – Meadows Road – Toll Bros. – Minor Change Request to Catch Basin, per HEA's recommendation.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

IV. TOWNSHIP BUSINESS ITEMS

A. MEADOWS ROAD TRAFFIC STUDY

Mr. Kern said Bob Lynn, P.E. with HEA will review the Meadows Road traffic study with Council.

Mr. Lynn said everyone has the traffic report and the options of improving the road. There were four analyses done on that. They took into account safety for traffic at the intersection, the levels of service for all of the approaches as well as the intersection in question, traffic volume on the bridge because it's a historic structure, and to minimize the cost and maintain access for emergency response. In doing all that, they analyzed four different options. One was to make Meadow's Road one way going away from Route 412. One was making it one way going towards 412. The next was realignment of the intersection with Springtownhill Road and signalization of Meadow's and Springtownhill Road and relocation of Springtownhill Road. They came up with a short term solution to minimize cost and still address the other issues. The obvious and preferred choice is to relocate Springhilltown Road and bring it in at the intersection with the shopping center traffic light if it's possible. There is cost involved with that and they'd need additional right of way required with that. In the interim, their recommendation is to make it one way going away from 412. They analyzed it under existing conditions and looked at what the functions of the intersections were. The redistribution of traffic is going to come out Skibo Road. The levels of service were degraded only on two approaches with just the redistribution and if they optimized the signal timings at Walnut Street, they could raise those levels of service to acceptable levels. Level of service is a measure of delay at the intersection. Mr. Kern said how much time is considered an acceptable delay? Mr. Lynn said level service D is anywhere between 35 and 55 seconds of delay and even

with the redistribution, it was barely a service D, it was like 35.3 seconds, so it was close to a low C.

Mr. Lynn said the traffic on Meadow's Road across the bridge would be cut in half. There would be some cost for construction of a turn around in front of the Meadows facility. The purpose of the turn around would be because you'd have to maintain two way traffic in and out from Skibo Road to the Meadows. You would need a big enough turnaround to turn vehicles around. It's one way into the turn around and two ways after the turn around. They are long term solutions.

Mr. Lynn said other improvements are the Springtownhill Road, the right turn and trying to make a reasonable right turn for traffic traveling north on Route 412 and also there were previous recommendations from them and the Police Department for improving sight distance at that intersection by imposing no parking restrictions and removing some shrubbery.

Mr. Birdsall said why we would want to provide two way traffic all the way down to the Meadows. It is really a convenience to that neighborhood so they don't have to go all the way around to Route 412 to get to their home or go all the way around Route 412 to gain access to that lower section of Meadow's Road. Most of the residents along Meadows Road, the Sportsman Club could come and go two ways coming off of Skibo Road. If it was one way the entire way, we felt it was unnecessary a position on that entire neighborhood. Mr. Kern said it would really be used for just local traffic because it really is a one way. Mr. Birdsall said there would be appropriate signage at the corner of Skibo and Meadows indicating there was "one way" ahead and "no through" traffic to Route 412. This would preserve emergency access to that area whether it's to the Meadows or to a fire at the home. Emergency people still could get there from all directions.

Mr. Birdsall said regarding the turn around, it's for people coming down from the intersection at Meadow and Skibo as far as the Meadow's or the Sportsman's Club and they can access it from both sides. The turn around is there so they can go back out. This way no one will turn around in someone's driveway. It may be as simple as getting an easement from the Meadows and we could assign it as a turn around area. Mr. Maxfield likes the idea of the turn around in the Meadows instead of new construction especially that close to the creek. When you come out of the Meadows, you can't see over the bridge, has that been addressed in the study? Mr. Lynn said no. Mr. Birdsall said if they see speeds are increasing, they can put a speed bump before the bridge. Mr. Lynn said we can also put a sign, "two way traffic ahead".

Mrs. Yerger said the whole Polk Valley Road as far as putting a signal put in there, are we going to do this first or simultaneously. Mr. Lynn said it's a decision you have to make at this time. They met with PennDOT to discuss that intersection and got their input with regard to McDonalds and the shopping center. They are waiting on McDonalds right now.

Mr. Maxfield said this is short term and if we are looking for an inexpensive longer term, the best thing would be the realignment at the bottom of Springhilltown Road. Mr. Lynn said yes, it would. Mrs. deLeon said how about a solution to our cost. We talk about the casinos adding more traffic and the casinos traffic would be traffic coming up 412 from Springfield Township. It's not going to take people too long to figure out there's going to be a lot of shortcuts. The county would have money for us and maybe some money could come from them.

Mr. Kern said he thinks the one way solution seems to make a lot of sense. Mr. Kern opened it up to the floor.

Scott Szabo, 1688 Edwards Drive, said the Meadow's Road intersection impacts them. He's looking for some talks we had last year about the quick turn coming off of Main Street coming from the shopping center to take a right to go up to Springhilltown Road. Is that still in the plans?

Mr. Kern said very much so. Mr. Birdsall said the LSA gave them the property, so we now own the property. PennDOT has seen the plans the first time around. They are revising them according to what they wanted and are about ready to submit them this week. Hopefully, within 30-45 days, they will have a permit and the township can schedule the work. Over the summer we'll get a right turn on Springtownhill Road and one way coming into the Meadow's to relieve some of the traffic.

Ted Beardsley, resident, said this is a good first step. He's hoping when you put the light in at Polk Valley Road and whatever you do at Springhilltown Road, will result in it not be necessary to signalize the Route 412/Meadows intersection. He'd prefer to see Springhilltown Road relocated. Reducing the traffic over the bridge will preserve the bridge. The ten ton limit, his wife saw a tractor trailer full of lumber, probably going to Toll Bros., came right over the bridge and a log truck also went over the bridge. Mr. Cahalan will alert Toll Bros. of the violations.

Ms. Stephanie Brown said there is a problem with the speeding of Meadow's Road, the speeding concrete trucks, and the use of the Jake brake. She's disappointed with the traffic study. Most of the traffic is going to the Giant. Mr. Lynn explained to Ms. Brown again about the one way on Meadow's Road. For her Father who goes to work every day and goes down Meadow's Road, he won't be able to do that. She has a problem with that. She'd like to see no left turn on Meadow's and on Springhilltown Road. . There's another 50 homes being built up by Meadows which will affect the road. She'd like to see a light at Apple's Church and 412.

Mr. Kern said the eliminating the left turn on to 412 from Meadow's, did HEA investigate that as an option? Mr. Lee said they looked at that and there's just as much potential for a conflict with a right turn. In addition, it is a policing factor. If someone has the ability to make the left turn, they are going to make the left turn. Mr. Kern said it will inconvenience certain residents, any changes we make, but it's for the overall good to make this change. Ms. Brown said people are always taking shortcuts through developments and speed through. Traffic is bad enough at Walnut, and you are going to have traffic backing up even further. Mr. Maxfield said Hellertown has plans to work on that intersection.

Mr. Lynn said they took the traffic that would normally exit Meadow's Road on to 412, and redistributed it to Skibo Road. They found there was really only two approaches and it degraded the level of service. The main line 412 remained at the A or B that it was at prior to the redistribution. With some minor signal timing changes, they brought those degraded levels of service back up to or near what they had been previously. It did not take into account the new developments. Ms. Brown said when Giant was approved, this should have been looked into better. This has always been a problem and now all of a sudden you want to change Meadow's Road. She doesn't see this as a solution. She's not happy with this at all.

Mr. Beardsley said everyone that's on Meadow's Road between 412 and Wilmette Lane, except for one person, has indicated that if it got turned to a one way, they were okay with that. He hopes that the numbers are being used to do these traffic studies are more realistic than the ones he saw for the Filler property. If you are going to put new signage up, please evaluate the signage that is already there because there are somewhere between 7 or 9 signs between 412 and his property. Some have just faded away. Jack will look into this.

Mr. Birdsall said they'd like approval to go to the next stage to do a little more of engineering on where to place signs and how to place them and start to approach the Meadow's Road.

Mr. Kern said this will be advertised to make the change to a one way and there would be a hearing and people would come and voice their opinions.

MOTION BY: Mrs. deLeon moved to approve to proceed as stated by the Engineer.

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

ROLL CALL: 5-0

B. CASINO IMPACT UPDATE

Mr. Kern said the PA Gaming Control Board has scheduled Public Hearings at nine (9) locations throughout the state to allow local government units, community groups and the general public to comment on the applications that have been submitted for casino licenses in PA. Locally, the hearings on the applications for casino licenses in Bethlehem, Allentown and Limerick Township, Montgomery County will be held on April 28, 2006, May 22, 2006, and May 23, 2006 in Allentown, PA. The Manager will update Council and Council will discuss who will represent the Township at these hearings.

Mr. Cahalan said the selections were spread out over the three days. There will be a sign in sheet at the door and that's how the individuals will be chosen to speak. The sign in will start at 7:45 and the hearings are 8:30AM to 6:00PM at the Crown Plaza Hotel in Allentown.

Dates for Hearings:
March 28 - Mrs. deLeon, SV Partnership & Mr. Birdsall
May 22 - Tom Maxfield, Jack Cahalan, Guy Lessor, and Emergency Mgmt. Coordinator - Bill Csaszar
May 23 - Glenn Kern, Sandy Yerger, Ron Horiszny, Chris Snyder and Laura Ray

Thomas Barndt was not selected.

Mr. Birdsall asked if the applicants get to speak and restart every hearing with their 30 minutes and their 10 minutes. Mr. Cahalan said he doesn't know how it's going to be spread out. Mrs. deLeon said she read the three of them will have time in the beginning of the first hearing and they weren't going to do it again, maybe just have a video there.

Mr. Cahalan said how do we want to set this up and what do we want to say? The comments will encompass the traffic concerns, emergency services, and concerns of the police. Emergency services and police will be represented. This could be a long day for whoever goes there. If two or more representatives from the township scheduled for the same day and sign in consecutively on the sign in sheet, apparently they would be able to testify consecutively.

Mrs. deLeon said we are all going as individuals and can say what we want to. Glenn will be doing the Township's position, the three issues. The others can talk about other things so they aren't duplicated. Mr. Maxfield said it's only three minutes. Mr. Cahalan said we can submit comments for the written record up to June 2.

Mr. Michael Stern said what is your position on the casino and how are you going to handle that traffic over Wyandotte Hill? Mr. Kern said at our last meeting, Council came out in opposition of the slots in Bethlehem. Last week, the Manager, Priscilla, and himself met with Karen Beyer to discuss traffic issues. They had the Township Engineer there and Upper Saucon's engineer there also. A conclusion drawn by the Upper Saucon Engineer was that traffic that would be going up and over to Wyandotte Hill would not be going down to five corners, they would seek alternative routes up Mountain Drive and then down right into the casinos, down Hayes Street. Mr. Stern said personally he's in favor of it and he does like the slots. Mrs. deLeon said it was opposed because of the unaddressed impacts. It was missing information that would impact the township roads. We definitely have issues.

Ms. Stephanie Brown said she's against it too. Her concern is Mrs. deLeon is going up as an individual but the application was for the SV Partnership. You have these big companies coming in that don't care about the surrounding communities. A lot of people do need jobs and there's the supposed promise of relief of property taxes. The other thing, they come in and don't know the area. Mrs. deLeon said when the SV Partnership was formed by Hellertown Borough, LST and the school district, our bylaws stated it has to be a unanimous decision for us to go do whatever. The school district choose to not take a position on the slots. At the time of the deadline, they entered her twice, once for the partnership and also as a township representative. It doesn't matter what our title is as we're still an individual there. The only local government they've considered is the host city and the host county. The gaming board chose the definitions. We have to play by their rules and this is what we get. Ms. Brown said there was a meeting in Hellertown, was there a position taken as a group? Mr. Cahalan said Council has taken this position prior to that meeting. That was just an informational meeting. Mr. Maxfield said it was reported in the newspaper Hellertown voted to take no position. Selected was the Borough Manager, but other council members and the Mayor submitted registrations. Mr. Kern said Hellertown Borough Council President's position is in favor of the slots. Mr. Cahalan said one area we can agree on is the traffic issues. The fire companies are going to have increased calls and so is the EMS. Hellertown has no position. Mr. Horiszny said the citizens overwhelmingly at that meeting were against the casino. Mr. Kern said one person there was for the casino.

Attorney Treadwell said you can discuss this in conference if you are all speaking as individuals. Mr. Cahalan said there would be a coalition which would include the township, Hellertown Borough and Freemansburg Borough. The recommendation was we could move forward to informally meet with representatives with Freemansburg to discuss the impact issues. Mr. Yob and Mr. Lasso are interested in meeting with the Township and the Borough to discuss impacts. Mrs. deLeon said the goal of the coalition would be that the three of us are the local municipalities, we have the most impact. You don't have to have a position if you are for or against. No matter which position you take, there are still going to be impacts there. We have to form one team to go and ask for funding. For us to be reimbursed for our impacts, we have to make an application to Northampton County and go in as a group to show this is an impact. The mission is to approach the gaming board and get as much money as possible from the county funding. Mrs. deLeon said if we sit back and wait for things to happen, the site is going to get chosen and we're going to be standing there and it'll be too late. It has to be now and between December when they choose the site. Mr. Maxfield said that would be plan B and assuming they are going to be here and just making it the best possible position for yourself. Mrs. deLeon said they talked to Boscola and told her they didn't like the regs. Mrs. Yerger said between Lehigh and Northampton County, they are going to revenue share and what that will ultimately do, depending on where it's going, is reduce the amount of funding for the individual municipalities. There's a good possibility we are going to have very little coming our way. Mrs. deLeon said she'd like to take it one step further and write to Senator Boscola and Freeman and Beyer and ask them to change that Senate bill 682. That's pending and it is not approved yet and we need to ask them to change it so that we are better protected. We really don't know the position, whether it's going to be approved or not.

Mrs. Yerger said she was contacted by a township supervisor from Springfield Township. He'd like a copy of our official statement and are very concerned and would like to join us. They have country roads and they will be impacted. Their roads will not be able to take the increased traffic. They will get nothing. They are Bucks County. They want to come out in support of our opposition and would like it sent to Durham Township as well.

Mrs. deLeon said did we specify it was for the Bethlehem site or the Allentown site? Mr. Cahalan said we specified the Bethlehem site. The money from the county, the Gross Terminal Revenue (GTR), Mrs. deLeon received an explanation of it today. Mr. Cahalan said non-cash prizes, and she wanted to know what that included. Her questions were can you explain what no. 2 means, is

there a cap on that amount and what would be the personal property distributed in no. 3. His answers are annuities are considered in the calculation of GTR. That means the annuity amount of receiving a prize of $50,000 a year for life. They have to set aside that amount of money spread out over so many years. That's going to be deducted from the GTR. If we are going to be getting a percentage of the GTR, and they minus all these gifts, we are not going to get anything. There's no cap on the annuity amounts. No. 3, boats, cars, houses, trips, jewelry, etc., non-cash prizes, does not include comps or trips to the facility free rooms. Mr. Cahalan said in addition to giving you money, they can give you a boat, a car, a house, a trip or jewelry and they are going to deduct that from the GTR. Mr. Cahalan said the 2% they've been talking about going to Northampton County looks like it would be reduced to 1.2%. Part of that is going to be shared if it's in Bethlehem with the City of Allentown and Lehigh County. Mrs. deLeon said we need to make noise now. She said there are 22 applications and 14 sites and you draw a radius around the 14 sites, there are other communities around all those sites and it would be nice to form a coalition with all of them and get our rights protected.

Mr. Cahalan said does he hear from Council to reach out and set up a meeting with Freemansburg and Hellertown officials? Council said yes. Mr. Cahalan said we have to apply to the county and tell them what our impact costs are and they have to agree to provide grants. Mrs. deLeon said any impacts we don't get the reimbursement for are going to come out of the general taxes and then the taxes will have to be increased. One of the biggest impacts may be if the fire companies are going to have to become professional. The casino will have their own internal EMS and police. Most studies indicate the neighboring municipalities are impacted and they don't get any of the financial benefits. Mrs. Yerger said you have the quality of life issue which will all affect the way we do or don't live.

Mr. Robert Hero, resident, said if the developer wants to build a casino and the City wants one, you are going to get one, no matter what you say. It's like three years now, they are now building a Lowes on 8th Avenue. Everybody was fighting that. The reason Hellertown did not oppose the casino was hoping they'd have a better chance of getting a grant when they need some money from the County or from the City. That's why they aren't opposing it. Mrs. deLeon said we can still do the same things and still take a position. Mr. Hero said you are opposing it and you do another thing and then are asking for money then. You aren't going to stop it if it's going to come. Mrs. deLeon said we have to worry about our people's taxes and the impacts. Mrs. Yerger said she really doesn't think there is enough money to go around to all the little municipalities that are impacted. It's not realistic. Mr. Hero said either way, it's coming to this area and you are going to have to deal with it.

Mr. Horiszny said does it do any good to let the state legislators tell the county that we should be guaranteed some of the 40% from the county? Mrs. deLeon said she meant the legislators have to amend Act 682. Senator Boscola said she already put that into legislation that you'd be reimbursed. Mr. Kern said the bill they are introducing really hurts us as it dilutes the money that is going to Northampton County which means there is less impact money for us to ask for once its divided. Mrs. deLeon said how about if we say we oppose the legislation as written to date because it doesn't adequately protect our residents, our fees, our costs. Mr. Maxfield asked about the split they are proposing to go to Lehigh County? Mr. Cahalan said out of the 2% they are giving them .8 and 1.2 stays in Northampton and vice versa. Mr. Maxfield said since we are a community and say it goes into Bethlehem and we sit next to Bethlehem and have impacts, should we not also petition Lehigh County for some of their money? That's the money coming from the casino and their money is not going to any other municipality except Allentown. Mr. Cahalan said only Lehigh would get the money if they got the casino. Mr. Maxfield said we are having to split the money. Mrs. deLeon said the legislation is stated that the County can only give to their county people. Mr. Maxfield said they get to keep all of it then as there is no one suffering any impact in Lehigh County. Mrs. deLeon said we can take a stand we oppose the proposed legislation or take a

stand we're being impacted as a community no matter which place it goes to. Mrs. Yerger said they are going to look at it as a benefit if it goes to Allentown. Mr. Cahalan said you are trying to say, keep us whole in terms of the 2%. If you want to share, get more money from the casino. Increase the 2% so you can keep us whole and share it with Lehigh and City of Allentown. Mr. Maxfield said or be actually fair on who is being impacted.

Mr. Kern said what we need to do is specifically come up with costs we will be incurring. Somehow we need to line item costs, impact fees, so we have something we can present. Mr. Cahalan said we might be able to get some percentages of crime, etc.

Ms. Brown said why not get a hold of the Governor and invite him to the Township. It's just an idea. Mrs. deLeon said we'll add him to our list.

Mr. Stern said it's not going to work. All they got to do is take a drive over to the Stabler complex and he'll say what are you guys crying about. Mrs. deLeon said they created this language to address adjacent municipality impacts. They are the ones that put it out there. We just want to make sure it's expanded to include us.

Mr. Horiszny said are we going to generate that cost information? Mr. Cahalan said we are working on doing that for the public input hearings and also for Northampton County. They will have cost associated with police, emergency services and so on. Mr. Horiszny said can we say for the legislators we want a certain percentage of the gross revenue as we're a neighboring community. Put that in your legislation, don't give it to the county to give out municipal grants, but give it directly to the communities who border the casino. Mr. Cahalan said it has been estimated at about $5.5 million to Northampton County before this amendment. That's what they estimated the 2% distribution to Northampton County would amount to.

Mr. Cahalan will move ahead with the coalition and send copies of letters to Durham and Springfield township and investigate the cost.

C. <u>ADMINISTRATIVE ASSISTANT – APPROVAL OF JOB DESCRIPTION AND AUTHORIZATION TO ADVERTISE THE POSITION</u>

Mr. Kern said Council has approved the addition of an Administration Assistant in the 2006 budget. This position will assist the Manager and Assistant Manager with special projects and various functions within the Township administration.

Mr. Cahalan said the description was worked on and it's a position they spoke to Council about when they put together the 2006 budget. It's a real key position to fill some of the gaps and some of the things Council has been looking to get done that Leslie and himself haven't been able to spend the proper amount of time on. They've run this by Mike Carr for review and also the Union Representative, and they have no comments or objections to it.

Mrs. deLeon asked if there was a salary. Mr. Cahalan said between $25,000 and $30,000.

MOTION BY: Mr. Horiszny moved for approval of the Administration Assistant – approval of job description and authorization to advertise the position with a salary, per the job description of $25,000 to $30,000.

SECOND BY: Mr. Kern

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

ROLL CALL: 5-0

V. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF APRIL 5, 2006 MINUTES

Mr. Kern said the minutes of April 5, 2006 Council meeting have been prepared and are ready for Council's review and approval.

Mr. Horiszny said page 4, 4th paragraph, where it says "could possibly be moved", change to "could possibly be removed". Two lines down from that it says "the figures aren't driving", change to "the figures don't agree".

On Page 8, at No. 4, change "THINK" to "THIN".

On Page 9, C, change "DIRVE" to "DRIVE"

On page 16, 1st paragraph, 3rd sentence, change "IECI" to "IESI". Down to the bottom of the page, no. 4, change "tow" to "two".

On page 19, at the bottom, eleven lines up, it should be "having as big an on flow pipe", it should be "having as big an out flow pipe".

Page 20, 4th paragraph, before Roll Call, it says "enter up", it should say "interrupt". One more line down it says "situations lie", should real "situations like".

Page 26, 1st paragraph, it says "College Dive", it should read "College Drive".

Page 29, by the Motion, it says second by "Mr. Johnson", it should read second by "Mr. Horiszny".

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

VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

- Mr. Mike Stern said he is concerned about the car wash and the restaurant at 378. He read the following and wanted it forward to the PC. "He has brought to the attention of LS PC a number of concerns that are involved with the proposed car wash and restaurant at Route 378 and Oakhurst Road.
  - A previous sinkhole located at Rte. 378 and Oakhurst Road – has it been completely resolved or will it be reactivated by this new business?
  - What about the chemical residue?
  - Traffic pattern problems with the anticipated increase due to the Stabler lifestyle center on Center Valley Parkway. Will an additional lane be provided by proposed business along Route 378?
  - The greatest concern is the storm water runoff that will be created when 60,000 to 80,000 sq. feet of existing water absorbing property will be converted to concrete or blacktop surfaces, eliminating all water capture.
  - The only business on that property at this time is a roadside stand selling Christmas Trees, fruit and recently Easter Flowers. That business did not get involved with a topography change from the present soil and grass which, in turn, absorbs water from precipitation.

- This existing water absorbing property is located above the level of the properties across Route 378 which are low lying enough that the township was unable to provide public sewage in the past. Since there is no storm or drainage system in place, there will be a problem with water runoff when the property is converted. What is being planned to alleviate the future unwanted water runoff created by this business?
- Will the Planning Commission knowingly allow water runoff onto other neighboring properties without installing a storm water sewage system?"

Mr. Kern said they will make sure this goes to the Planning Commission. Mr. Cahalan said nothing official has been submitted and the only update is we understand that there is going to be a variance application at the next ZHB meeting. Mr. Stern was alerted and he can attend and testify. Mr. Cahalan will forward these concerns to the PC.

- Ms. Stephanie Brown said she has a number of concerns. There is a problem with what the state law or the zoning ordinance says. Her understanding is that signs are not allowed to be tacked onto utility poles, but she understands the township allows that. She wants to know if the township zoning ordinance is going against state law. Attorney Treadwell will talk to Chris Garges. Her second concern was she has problems with Toll Bros. and the trench by her property is still open. Mr. Cahalan said it's probably coordination of the different utilities. It could be cable TV. Her third concern was her Father is requesting why runoff from the development, which has been going on for many years, isn't attended to. Why are some of the lots so much higher (six feet) and how could that be approved? Mr. Cahalan said Jim responded to that question at the last meeting. It was done for the water runoff to keep it in the street area. It works for the drainage benefit of the Brown's. It's a more logical engineering way to grade the property for the Brown's protection. Her Father would like an answer on that so he can take the appropriate legal action against whomever he has to. Her fourth concern was how soon is Meadow's Road going to be paved again? Mr. Birdsall said they had a pre-paving construction meeting about a week ago and they were actually starting to schedule to do it the week after Easter. They will be coming out and doing the Meadows Road when they put the next level of paving inside the project. You should see paving equipment in the next couple of days. The final coat in the development will be another three or four months. Meadows Road would have a final coat probably in the next 30 days. She asked when yellow lines would be painted on the road? Mr. Birdsall said they will be put down after the paving. Her next concern was the street light that was put up in the right of way. It shines in her bedroom. Who takes care of it? Mr. Birdsall said they are owned by PPL. Her fifth concern was, she emailed the police today about Toll Bros. construction, as she's seen big trucks going over the bridge and speeding of trucks. No one stops at the stop sign at Stover Road. Mr. Cahalan said they will be putting in a stop line on Stover Road. Ms. Brown said it's not going to do anything. Her sixth concern was on Meadows Road, by the model home, the road is a little bit wider there. She's asked before why they are allowed to park there on the road. There are also problems on Skibo Road with parking on both sides of the road. She'd like to see these issues addressed. Mr. Kern said every one of the issues that was brought up tonight, there is nothing that Council can do as far as acting on. They've heard the issues before. Ms. Brown should generate a list and work with staff on the issues that need to be addressed and then the Manager will bring it to Council where we can act on it. We would be as aware of what your issues are with memos from Jack. The ones that can be handled would be handled by staff.

- Mr. Robert Hero said at the intersection of Polk Valley Road and Campus Drive, the stop sign, if you are going East bound on Polk Valley Road, can you get a "Stop except for right turn" sign? Council said that was a school zone and you can't do that.

VIII. COUNCIL AND STAFF REPORTS

A. COUNCIL/JR. COUNCIL

Mrs. Yerger

- She said in our last packet we got a letter from Lower Mt. Bethel Township and they came out in support for request from Upper Mt. Bethel Township for municipalities to talk to the Northampton County Association of Township officials urging them to forward resolutions to the PA State Assoc. of Township Officials to look into the institution of increasing developer impact fees at a state level. Maybe Linc can help us with it and look at the resolution and bring it back to us. It's something we need to look at.

Mr. Maxfield

- Nothing

Mr. Horiszny

- He attended the landfill quarterly review meeting yesterday and will go to the regular landfill meeting tomorrow. The biggest issue out there is still the BRE gas energy plant.
- There was an Authority meeting yesterday with no issues to report.
- Each of us that go to the PSATs convention, ought to try to attend the minute's workshop so we can get ours under control, and see how we can shorten them up.

Mr. Kern

- He read about the Polk Valley Park seeding. He was wondering what Jim's take was on this? Mr. Birdsall said we are keeping them advised that it is unacceptable in certain areas and there is a debate going on, and they are going to have to address our needs. We'd like them to address this before the planting season ends. As far as if he needs legal help yet, we may be getting pretty close to that. Mr. Kern said let us know. Mr. Maxfield asked if we were behind the regular schedule that was proposed when the park was initiated. Mr. Birdsall said we missed one full season because of the change of the plans and getting the revised permit for storm water runoff. As far as when you started bidding the job to now, the loss we had was in the planting season last fall they didn't do as much planting as they could or should have under the contract. The earthmover did a good job getting it ready, but when they had those perfect days in September, the seeder didn't show up. They did catch some growth, but it is a little bit delayed. It looks like we may not have lost a whole season.

Mrs. deLeon

- We got a letter from the Cold Water Heritage Partnership, addressing the final financial report. Have we ever gotten any report? Mr. Cahalan said yes, it was shared with the EAC. It's been several months ago. Mr. Maxfield said they were given a draft. She has never seen a copy. Mr. Cahalan will get a copy and distribute it to Council.
- A letter was received from Dr. Eberhardt regarding Fire Lane. She asked for an update. Mr. Cahalan said Chris was going to talk to Linc about it. She would like a report on that.
- Somewhere between the last meeting and now, she saw two letters from Steel City Fire Company and one from the Emergency Management Coordinator regarding BRE with suggestions. Were these implemented in the preliminary plan approval we gave BRE? Mr. Cahalan said those letters came in a day or two before the last meeting. It had to do with the emergency procedures. Mr. Birdsall said the language of the approval is broad enough to bring those in. He doesn't know whether they had a chance to revise the plans to bring those in, but they will follow up on that. Her concern is the discussion from BRE that night is that we need some clear direction on the host agreement as it has a covenant deed restriction. It says that any fire fighting activities should be the City of Bethlehem's responsibility. So if they are leasing a segment of the track that is tied in to the host agreement, it should really be the City of Bethlehem, and somebody needs to sit and explain that to Steel City and the Emergency Management Coordinator. Mr. Birdsall said

that whole issue is definitely on the playing field for BRE and we don't have a firm answer yet. Mrs. deLeon said we should know this by now.

- She is thinking about Gross Terminal Revenue. Is there a way we can write to the legislators and say that we're not happy with the definition of GTR? She wants everyone to think about that for the next meeting. It might be something else we can tell them we are not happy with.

Ms. Rasich

- Absent

B. TOWNSHIP MANAGER

- Nothing to report

C. SOLICITOR

- Nothing to report.

D. ENGINEER

- Nothing to report

III. ADJOURNMENT

MOTION BY: Mrs. deLeon moved for adjournment. The time was 11:07 PM.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Submitted by:

Mr. Jack Cahalan	Glenn Kern
Township Manager	President of Council