

- 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**
- V. TOWNSHIP BUSINESS ITEMS**
- A. Resolution #40-2011 – Transfer of Monies
 - B. Saucon Valley Community Center – Approval of 2011 Senior and Summer Recreation Program Agreements
 - C. Award of Bid – Ella’s Garden in Kingston Park
 - D. Ordinance No. 2011-04 – Saucon Rail Trail Rules and Regulations – Authorize Advertisement
 - E. Recommendations for Rail Trail Buffering Options at Ehrhart’s Mill/Old Mill Road Crossing
 - F. Additional Opportunities for Junior Council Persons
 - G. Seidersville Hall Window Replacement Bid – Authorize Advertisement
- VI. MISCELLANEOUS BUSINESS ITEMS**
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 - B. Approval of March 2011 Financial Reports
- VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS**
- VIII. COUNCIL & STAFF REPORTS**
- A. Township Manager
 - B. Council/Jr. Council Member
 - C. Solicitor
 - 1. Hoyt Cinema Tax Settlement
 - D. Engineer
 - E. Planner
- IX. ADJOURNMENT**

Next EAC Meeting: May 10, 2011
Next Zoning Hearing Board Meeting: May 16, 2011
Next Council Meeting: May 4, 2011
Next Planning Commission Meeting: May 19, 2011
Next Park & Rec Meeting: May 2, 2011

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I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, April 20, 2011 at 7:07 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 members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Linc Treadwell, Township Solicitor; Dan Miller, Township Engineer; Karen Mallo, Township Planner; and Jr. Council Member, Eubin Hahn. Absent: Sandra Yerger and Ron Horiszny.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

**Mr. Kern said Council did not meet in Executive Session
between their 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, we 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. Mr. Cahalan said V.G. Seidersville Hall Window Replacement Bid has been tabled.

III. PRESENTATION/HEARINGS – None

IV. DEVELOPER ITEMS – None

V. TOWNSHIP BUSINESS ITEMS

A. RESOLUTION #40-2011 – TRANSFER OF MONIES

Mr. Kern said Resolution #40-2011 has been prepared authorizing transfer of money from one Township fund to another as required by the Second Class Township Code.

**A RESOLUTION AUTHORIZING THE TRANSFER OF MONIES FROM ONE
TOWNSHIP FUND TO ANOTHER**

SECTION 1.

The Council of Lower Saucon Township hereby authorizes the transfer of monies from one Township fund to another in accordance with Article XXXII, Section 3202 (f) of the Second Class Township code as follows:

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		<u>FROM</u>			<u>TO</u>
<u>Amount</u>	<u>Account No.</u>	<u>Account Name</u>	<u>Account No.</u>	<u>Account Name</u>	
\$ 20,000.00	37.107.000	Heller Homestead Park Fund	41.100.000	Historical Structure Fund	
\$ 5,000.00	37.493.000	Contingencies	37.452.370	Park Maintenance	
\$ 650.00	01.493.000	Contingencies	01.410.420	Police General Expense	
\$ 3,644.00	01.107.010	General PLGIT	01.107.000	General Money Market	
\$ 211.95	04.107.150	Landfill Fund PLGIT	04.107.000	Landfill Money Market	
\$ 1.14	05.107.002	Open Space PLGIT	05.107.000	Open Space Money Mkt	
\$ 1.03	19.107.012	Storm Sewer PLGIT	19.107.000	Storm Sewer Money Mkt	
\$ 40.04	30.107.453	Fire Fund PLGIT	30.107.000	Fire Fund Money Mkt.	
\$ 36.24	31.107.454	Landfill Closure PLGIT	31.107.000	Landfill Closure Money Mkt	
\$ 5.69	34.107.456	Detention Pond PLGIT	34.107.000	Detent. Pond Money Mkt	
\$ 36.86	36.107.552	Town Hall Park PLGIT	36.107.000	Town Hall Park MM	
\$ 78.06	37.107.556	Heller Homestead PLGIT	37.107.000	Heller Homestead MM	
\$ 12.83	38.107.555	Southeastern PLGIT	38.107.000	Southeastern MM	
\$ 129.52	39.107.557	Steel City PLGIT	39.107.000	Steel City Money Market	
\$ 2,000.00	01.493.000	Contingency	01.415.300	Hazmat Cleanup	
\$ 500.00	01.493.000	Contingency	01.410.370	Communication Maint.	

SECTION 2.

The Township Manager is hereby directed to make the necessary transfers to implement this Resolution.

Mr. Cahalan said there's a memo in your packet with the resolution from the Finance Director. She's requesting this approval of the transfer. It's after April when we are allowed to move money in the budget. This is for a couple of things, basically broken down into three items. The first one is the Heller Homestead building expenses; which historically, have been budgeted in the account with the Heller Homestead Park and that money has been used for a variety of things at that site, including for repair and maintenance items on the historic Homestead House and the Widow's House. What Ms. Gorman is requesting to be done here is to transfer money from the Heller Homestead Park fund to the Historic Structures Fund. There are line items there for the Heller Homestead, the Lutz-Franklin Schoolhouse, and the Old Mill Bridge; the three historic sites in the Township. She's requesting this transfer which would put \$20,000.00 in that Historic Structures Fund earmarked for any repairs and maintenance on the Heller Homestead House. The other one she is requesting is the Police did get a donation of \$650.00 last year and they didn't identify it to her and it wasn't moved and earmarked in this year's budget, so they would like to use that, and that's what she's requesting with the transfer of the \$650.00. The other items on here are some PLGIT accounts that have been opened for several years. They are not really making any money. The interest rate is very low. The balance is very low also and she's requesting that those accounts be closed with PLGIT and that the money be moved into the money market account that she has at the Lafayette Ambassador Bank. We can get a higher interest rate for those. The rest of it has to do with moving contingency money of \$2,000.00 where we're finishing up the testing that's being done out at the gas pumps. You may have seen the old gas pumps are gone and we are now excavating the tanks. We are using temporary tanks that are on the side of the Public Works building. We have been paying GeoServices to do some testing and characterization work and this will hopefully finish off the work they have to do. Once the tanks are removed, we hope the case will be closed on the leak. The other one is just \$500.00 for an additional radio that the Police Department needed to replace. Those are the transfers that the Finance Director is recommending approval for under Resolution #40-2011.

Mrs. deLeon said she doesn't have a problem with the Historical Structure Fund. Her question is the \$20,000.00 that you are transferring from the Heller Homestead Park Fund, where do those monies come from? Mr. Cahalan said that was money that was put in over the last couple of years from the General Fund into the Heller Homestead Park Fund, specifically for maintenance and

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repairs. Mrs. deLeon said there were other expenses that were spent for the maintenance issues that were paid for out of the Park Fund. Mr. Cahalan said when you say they were all paid out of that fund, they weren't paid from recreation fees; they were paid from monies that were deposited from the General Fund. Mrs. deLeon said how do we know the difference? Mr. Cahalan said he asked Ms. Gorman to give him a breakout of what came out of there. She went back to 2001 and she looked at where the money came from that went into the account. Between 2001 and 2010 monies came out from the General Fund, General Fund, General Fund. The \$10,000.00 that was put into the Historic Structure Fund for the Heller Homestead in 2004 came back into the Heller Homestead account. It was General Fund, General Fund, General Fund, Land and Acquisition, General Fund and General Fund. The amounts were \$4,000.00 in 2001; \$4,000 in 2001; \$5,000.00 in 2003; \$5,000.00 in 2004; \$10,000.00 in 2004; \$5,000.00 in 2005; \$5,000.00 in 2006; \$5,000.00 in 2007. Mrs. deLeon said you can be rattling numbers off to her, but they mean nothing. She doesn't know what they were spent for. Her issue is this is a park and there was money given to them by developers over the years. That money has been reduced because the favorite park is Polk Valley Park, so all the money that developers give us goes to the Polk Valley Park. Very few monies are allocated to the other parks, and we're not really requiring open space. This park was given to us for open space. Before she votes on this resolution, she doesn't have a problem with voting on the rest of these, but she has issues and would like a more broken down accounting of where all this money came from so she's comfortable in knowing which is the developer money.

MOTION BY: Mrs. deLeon moved for approval of Resolution #40-2011 minus that line item.

Mr. Maxfield said he'd like to discuss it a little bit more. He has always been bothered by the fact that we have a park next to a historic structure, which to him, there's already a subdivision between the plot of land it's on and the rest of the park. To him, it's very close to the situation the Lutz-Franklin is in, the Lutz-Franklin plot plan and the Kingston Park being an actual park. He doesn't consider the Heller Homestead a park. He considers it a park structure. He would like to reinforce the difference between those two so park funds; recreation funds can clearly go to the park part of it and the historic structure funds can go to the Heller Homestead. That's what he would like to see.

Mrs. deLeon said that's all fine in your theory, but in actuality when Society Hill dedicated the park land, she was on Council then and that was back in 1988. They at first recommended donating approximately 14 acres of flood plain land and she did her homework and went into the Open Space and Recreation Ordinance and discovered that any park land or any open space land had to be developable land. They went back and they acquired Southeastern Park as a result of that to come up with the amount of acres that were required under developing Society Hill and clearly Lot 1 and Lot 2 were dedicated to the Township. The two acre historic tract and the 12 acre wood land park was definitely dedicated to the Township as open space and recreation and they were very thrilled to acquire a historic site as a result of the developer giving them that land. The whole parcel of that park is a park. It's dedicated to perpetual open space. The ordinance says it has to be used perpetually for recreation. Mr. Maxfield said it's not an ordinance, it's in the deed. Mrs. deLeon said the ordinance requires the developer to dedicate land to the Township and they have to do it by covenant. The covenant clearly states Ordinance (whatever number it was) as a result of that. Mr. Maxfield said they dedicated it to the Township. Mrs. deLeon said absolutely. Mr. Maxfield said here's a scenario. Their open space monies were allowed to buy historic properties, which then qualifies it as open space, which we could take any of our historic structures, since we're not going to rip the structures down, subdivide or build on them. They could probably all qualify as open space. He did read the language in the transfer deeds and the documents that requires us to keep these as one big chunk of property. He thinks it's a real stretch to call the Heller Homestead structure a park and it would be illegal to use recreation fees to maintain the Heller Homestead structure. He thinks the Heller Homestead Park very much deserves park fees. He doesn't think the structure does. The structure is a historic structure which now has its own set of requirements under the acceptance into the State historic program. Under historic structures, that would have its own amount of money. There is already a subdivision between the two

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properties. It would be clearer and not as messy if we were to designate the Heller Homestead as a historic structure and maintain it as open space and maintain the rest as recreation/open space. Otherwise, we'd be running recreation programs at the Heller Homestead. He thinks it's a fair proposal. He is going to ask Attorney Treadwell to look at the language in there.

SECOND BY:

Mr. Kern said hearing no second, the motion dies.

ROLL CALL:

Mr. Kern said he's not clear on Mrs. deLeon's issue. Mrs. deLeon said she doesn't have a problem with the Historic Structure Fund. She thinks the Township should fund that. Her problem is taking the \$20,000.00 out of this Park Fund as it was given to us for recreation, although part of that money was given by the General Fund over the years to add to it, like we did to all the other parks. To sit here and argue that Lot 1 and Lot 2, because it has a historic structure on it is not open space and recreation, goes against the intent of the ordinance that was passed for developers to give us land. Mr. Maxfield said that was not the argument. Mr. Kern said that is irrelevant to the discussion. The discussion is about the \$20,000.00 and whether or not it's pertinent, allowable, legal to transfer. Mrs. deLeon said that's what she wants to know. Is it legal to transfer it or not? To her, the two acres Homestead tract has other recreational possibilities and the lease the Conservancy has with it is a share thing and they are technically providing recreation use for the Township as a Historical Society just like Lutz-Franklin and the Historical Society is providing recreational use for the Township. That's all of value and when we approved the Upper Saucon plan in 2006, the schoolhouse was made a park and it identifies the park. It identifies the 14-acre Heller Homestead and it has Town Hall Park, Steel City Park, Southeastern, the Heller Homestead Park, and it talks about the schoolhouse. It doesn't talk Kingston Park as that wasn't reality yet. Mr. Kern said it comes down to the legality of transferring the \$20,000.00 and based on Mr. Cahalan's breakdown and discussion, a substantial of that came from the General Fund which indicates to him it is perfectly fine to move the \$20,000.00, if Council decides to do so.

Attorney Treadwell said if the money that is being transferred back into the Historical Structure Fund from the Heller Homestead Park Fund came from the General Fund to begin with, then he would agree. If the money that's being put into the Historical Structure Fund was earmarked as recreation fees, then there would be a question. He doesn't know the answer to that as he doesn't know where the money came from. Mrs. deLeon said why can't we approve this resolution, minus that, and that can be put on a future agenda when we have more information to make an informed decision. There's nothing wrong with that.

Mr. Maxfield said he just thought Mr. Cahalan said it was not from recreation fees. Mr. Cahalan said there is one amount of money that says developer fees from Cobble Creek. Ms. Gorman said this is money that went into the fund, so there was clearly money coming from developer fees going into the park fund, which is Mrs. deLeon was talking about. There was at least \$50,000.00 to \$60,000.00 coming from the General Fund. They were all coming into the Heller Homestead Park Fund. Mr. Maxfield said if we determined what the recreation monies are, the minimum should be left in the Heller Homestead Park Fund. Attorney Treadwell said he's not sure whether the actual Heller Homestead building is labeled as part of the Heller Homestead Park or not. He doesn't know why it makes a difference. If it is part of the park, and you are going to spend the money in the Historical Structure Fund on the Heller Homestead, then you could use developer money as that's part of the park. You could transfer that \$20,000.00 to the Historical Structure Fund based on the fact that you are going to spend it on the Heller Homestead which is part of the park, if it is part of the park. He doesn't know what the distinction is. Mrs. deLeon said she doesn't know what the effort is to even have to transfer it. Why make it messy? Mr. Kern said the whole purpose of it is to clarify for accounting purposes so it's clear that the money being spent on the Heller Homestead is being spent on maintenance. Mr. Maxfield said if recreational fees went specifically for the Heller Homestead Park, and now it's going to the Historic Structure Fund, it

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may be used for the bridge or the Lutz-Franklin recreation fees that were stipulated for Heller Homestead.

Attorney Treadwell said he thought Mr. Cahalan said it would go into the Historical Structure Fund to be used for the Heller Homestead. Mrs. deLeon said that's exactly her point. Then it's easier to use for other things. Mr. Cahalan said that's not the intent. The intent is to put it in the account where there's a line item for each of the three historical structures. That money, if it's in there for the Heller Homestead and if there's any intent to use it for the Old Mill Bridge or the Lutz-Franklin Schoolhouse, that will come back here and Council will make that decision. That is not something that Staff will do. Mr. Kern said that would be no different than transferring it from anywhere else into the fund. It would require a Council vote to do so. This is strictly for accounting purposes.

Mr. Maxfield said are you worried about Council defunding the Heller Homestead Park? Mrs. deLeon said any Council can do anything by motion. Mr. Maxfield said they could do whatever they want any time in the future. Mrs. deLeon said she doesn't see the problem with leaving it where it is. Mr. Kern said because our accountant asked for clarification so it determines it easier to know where the funds are going. Mr. Maxfield said it's too mushy the way it is. There should be that separation. It should be established and maintained between the structure and the park. The structure is the structure. The park itself doesn't have the National Register designation. Nothing can be done to the structure without the okay from the National Register Committee, yet we can do all sorts of things to the park just like we can do to Kingston Park. We make all sorts of modifications to that, but we can't go in and make modifications to the Lutz-Franklin, so there are different sets of conditions for the different properties. There are different usages for the different properties. The fact that in the future by maybe a mistake that recreation fees would be used to maintain part of the Heller Homestead worries him. He doesn't want to see something happen like that by mistake that is obviously illegal. Clearing it up and separating the two makes more sense than not. He doesn't understand why we wouldn't want to make things clearer. The transparency is better to the public. Exactly where the money is going for land, park development, or structure maintenance is much clearer. It's clearer to the Council and it's clearer to the public. What is the problem?

Mrs. deLeon said there is a line item right now where it says repairs. It can't be any clearer than that. When we fix a building like on Southeastern Park, where does that money come from? Mr. Cahalan said that would be in the Park Fund and a line item for construction improvements, maintenance repairs, engineering services, any major equipment or minor equipment, so they can break out anyone of these funds to specific items. Mrs. deLeon said what if there's no money in that particular fund, then it would come out of the General Fund as you wouldn't ignore issues on a publicly owned building? Mr. Cahalan said no. They don't have it earmarked for a specific need, they leave it in the Contingency for that. Mrs. deLeon said she just thinks it's simple the way it is. Mr. Maxfield said in a way, he thinks it's an honor to the Heller Homestead structure because dealing with that in the same way you would deal with a pavilion and restrooms at Southeastern Park is not equal. The structure needs to receive the attention it deserves and it really shouldn't be comingled with the other funds.

Mr. Kern said back to the resolution, is there a motion for approval? Mr. Maxfield said he doesn't know if we can approve it as we still have to figure out the recreation fees from Cobble Creek that Mr. Cahalan was referring to. Mr. Kern said according to our Solicitor, that's not accurate? Attorney Treadwell said he doesn't know how much Cobble Creek gave you or how much is in that fund. He would think that we spend the money that the developers are required to give as a recreation fee first before you spend General Fund money, but he doesn't know the answer to that. Mr. Cahalan said that would be correct as there's a time limit on when it has to be spent. He can't specifically say when that amount of money was spent and what it was spent on. They did make expenditures from the Heller Homestead Fund for maintenance and repair of the building. He doesn't have that breakdown. If you want, Council could approve the resolution minus the transfer

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of the \$20,000.00 from the Heller Homestead Park Fund and they could come back with some more answers to the questions you raised this evening.

Mr. Maxfield said he would like to pursue that option of the separation. That's fair and we have parity between the other historic structures. For instance, the bridge is technically the Ehrhart's Mill District, but it isn't covered under funding as it has its own structural fund. Maybe before we bring this back for approval, we could explore that option. Mr. Cahalan said okay.

MOTION BY: Mrs. deLeon moved to table Resolution #40-2011 until we have more information.

Mr. Maxfield asked Mr. Cahalan if they needed the money right away? Mr. Cahalan said there are things like the Haz-Met cleanup items and the payment for the police radio and the \$650.00 they are looking for. His suggestion would be to consider approving the resolution minus the transfer for the \$20,000.00 from the Heller Homestead Park Fund to the Historic Structure Fund.

Mrs. deLeon said she will go back to her original motion.

**SECOND BY:
ROLL CALL:**

MOTION BY: Mrs. deLeon moved for approval of Resolution #40-2011 minus the first line item of \$20,000.00 for the Heller Homestead Park Fund.

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

ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

B. SAUCON VALLEY COMMUNITY CENTER – APPROVAL OF 2011 SENIOR AND SUMMER RECREATION PROGRAM AGREEMENTS

Mr. Kern said the Agreements between the Saucon Valley Community Center and the Township has been prepared for the 2011 Senior and Summer Recreation Programs.

Mr. Cahalan said this is three programs that they annually approve a contract for with the Saucon Valley Community Center. Two of them are children's programs and one of them is for seniors. The biggest one is the summer recreation program. That is a program that is held at three of our parks and it runs for several weeks during the summer. It accommodates up to 145 Township children. It's a four week program. They have a program at Town Hall Park that can accommodate 70 children; at Southeastern Park 35 children; and at Steel City Park 40 children. The program will run from July 11th to August 5th. It runs from 9:00 AM to 2:00 PM. It's very popular. People rush to get their children signed up. It's free for Township residents. The cost of that is \$24,200.00 annually. That's specified in the contract. Also in the contract is a summer children's program and that consists of classes they run at Seidersville Hall for two groups of children. One group is ages 3 to 5. There are two classes for them that run a week in July which are Summer Art and Bookworm. Then for children in 1st through 5th grade there are two other programs, Science Fun and Summer Art. That runs for a week during the summer. That is limited to 15 children total and the cost of that is \$3,207.92. The third program is the senior program that operates out of Seidersville Hall. That's a program that runs on Tuesday's, Wednesday's and Thursday's. The cost of that program is \$16,219.00. That is all specified in the contracts you have before you and the addendum has all the pertinent information about the program and this money has been approved in the 2011 budget.

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- MOTION BY:** Mr. Maxfield moved for approval of the 2011 senior and summer recreation program agreements.
- SECOND BY:** Mrs. deLeon
- Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

C. AWARD OF BID – ELLA’S GARDEN IN KINGSTON PARK

Mr. Kern said the Ella’s Garden landscaping bid opening was held on April 14th and the Manager will review the results and recommendations for award with Council.

Mr. Cahalan said we were pleased when we opened the bids, we had nine bids submitted for the planting out at Ella’s Garden. They have finished the construction of the garden. It is in its final stage and is ready for the planting. We worked long and hard to come up with a planting plan to go out in Ella’s Garden. The low bidder for both the nursery stock and the seed mix price and also the maintenance was American Native Nursery, 2191 Hillcrest Road, Quakertown, PA. They submitted a total bid of \$8,900.08. That was broken out to \$4,790.08 for nursery stock; \$90.00 for seed mix; and \$4,020.00 for maintenance. The Solicitor reviewed all the documents and American Native Nursery submitted all the required bid documents, and they are recommending that the contract be awarded for American Native Nursery.

Mrs. deLeon said she noticed a lot of differences in the prices. Mr. Cahalan said they have indicated they can supply all the plants on the planting plan and they look to be a reputable company and they recommend approval.

- MOTION BY:** Mrs. deLeon moved for approval for Ella’s Garden bid to American Native Nursery for \$8,900.08.
- SECOND BY:** Mr. Maxfield
- Mr. Kern asked if anyone had any questions or comments? Mr. Katz asked where Ella’s Garden was located? Mr. Cahalan said it’s next to Kingston Park.
- ROLL CALL:** 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

D. ORDINANCE NO. 2011-04 – SAUCON RAIL TRAIL RULES AND REGULATIONS – AUTHORIZE ADVERTISEMENT

Mr. Kern said Ordinance No. 2011-04, which amends the Township Park Use Rules to add a new section with rules covering the Saucon Rail Trail, has been prepared for advertisement.

Mr. Cahalan said they had a discussion at the last meeting about adding several rules to our park rules and then adopting them as trail use rules. That’s what the Solicitor has done with Ordinance No. 2011-04. In this ordinance, which is labeled as Saucon Rail Trail Prohibited Acts, it gives a list of 26 rules and to the familiar park rules, they added under No. 3 that alcoholic beverages are prohibited on the trail. Under No. 6, language was added that dog walking on a leash shall be permitted, and it shall be the responsibility of all canine owners to collect and properly dispose of their canine feces; under No. 12, they indicated that motorized wheelchairs and Segway’s shall be permitted; under No. 25, they added that smoking is not permitted on the Saucon Rail Trail; and No. 26 was added indicating persons utilizing the Saucon Rail Trail shall use the designated trail area only and shall not trespass on private property. Mrs. deLeon said shouldn’t that be No. 1? Mr. Cahalan said they can change it. That is in the ordinance before you that is ready for approval and ready for advertisement which can be adopted at a later Council meeting.

Mrs. deLeon said the Parks & Recreation Board made a recommendation awhile ago and we’ve been back and forth with this horse issue. Out of respect to the Parks & Recreation Board, we need to have something on record that we followed this up. There doesn’t appear that decisions were made outside of this meeting. Hellertown talked about this on Monday evening and they decided

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not to allow horses. She doesn't have a problem as one of us shouldn't do it and one should, but we need a record of it somewhere that they did discuss it and took some kind of action. Mr. Cahalan said after the last meeting, he spoke to the representative of the Rail Trail Committee and the member who is has been promoting the horses and told her that Council wanted more information on this issue and they were prepared to bring that back to you. She is going to do some of the research and one of the things you asked was what Hellertown is doing and now we know what they are doing. There were some other issues about the cost of the alternative trail, picking up the horse manure, the access, and that information can still be gathered and be brought back to you and this ordinance, if adopted, would prohibit horses as it does in parks currently. Mr. Kern said given Hellertown's decision the other night, there is no access for a horse trailer at this point, so it's kind of moot right now. Mr. Maxfield said Upper Saucon's statement that they will not allow horses either.

Susan Katz, resident, asked about the hours of the trail? Mr. Cahalan said dawn to dusk, just like any park in the Township.

Mr. Maxfield said he did a lot of research last week and this is very much in accordance with all the other Rail Trails that he's seen in PA.

MOTION BY: Mr. Maxfield moved for approval to advertise Ordinance No. 2011-04
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

Mrs. deLeon asked about the opening date of the rail trail? Mr. Cahalan said a suggestion was to have a joint opening of Lower Saucon and Hellertown on May 7th. There was also an invitation from Upper Saucon to participate with them in their ribbon cutting ceremony on June 11th. At the Hellertown Borough meeting, he also understands that they voted to hold a ribbon cutting on May 7th. Mrs. deLeon said at the SVP meeting last Wednesday, the SVP members also supported that concept. You couldn't have picked a better day because of the combined history days with the Grist Mill, the Homestead, all having activity. You couldn't ask for a better turnout for an opening of the rail trail. They could participate with Upper Saucon on June 11th. Mr. Cahalan said that is also contingent on Hellertown getting their section of the trail completed. He didn't get into any details as they didn't confirm what date it's going to be. Mrs. deLeon said Hellertown was interested in having it open for the Farmer's Market.

MOTION BY: Mrs. deLeon moved for approval to have Hellertown and Lower Saucon's opening of the Saucon Rail Trail for May 7th, contingent on everything being in place, and the time to be announced by both municipalities and participate with Upper Saucon's opening on June 11th.

Mr. Kern said the first opening would be a soft opening, with the official opening on June 11th.

SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

E. RECOMMENDATIONS FOR RAIL TRAIL BUFFERING OPTIONS AT EHRHART'S MILL/OLD MILL ROAD CROSSING

Mr. Kern said the Township Manager and Planner will provide recommendations for rail trail buffering options for the residences in the historic Ehrhart's Mill/Old Mill Road area.

Mr. Cahalan said the Saucon Rail Trail Advisory Committee has been meeting informally for the past year. They have representatives on the committee from the Township, Jerry Holum and Donna Bristol. Hellertown has two representatives and a resident from Coopersburg who has been

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attending. One of the purposes of that body was to meet publicly so that residents could come and voice their concerns about the rail trail, especially for people who live on properties abutting the rail trail. That has happened and residents have come and expressed some concerns. They've ranged from privacy concerns to security concerns. They are trying to address them on a case-by-case basis. One of the issues where it's very apparent is down at the Ehrhart's Mill - Old Mill Crossing area which is a historic district that's on the National Register. There are several houses there. There used to be the mill in that area which was very noteworthy, but it burned down. There is the Old Mill Bridge. All of those houses contribute to that historic district. The houses are occupied by residents and some of them, particularly the Mill House and the Katz House, are literally a few feet away from the trail. When the SEPTA contractor came up to remove the rails and ties, the buffering vegetation was removed from a 30' swath of the right-of-way. That exposed some of these houses along that area. What they are recommending is a variety of options for privacy buffers that Ms. Mallo can go over. The Sarah Ehrhart Retirement home is on the southern side of Old Mill Road and there was some vegetation removed there that makes the area look pretty bare when you enter the trail and they are recommending that there are some options for plantings there. These privacy buffers will help to delineate the properties so that people will be more inclined to stay on the trail and not wander onto private property. They have funding they put aside for rail trail development, which is about \$50,000.00 this year. They've only spent about \$29,000.00 to develop the trail.

Ms. Mallo said she'd like to point out that the options included in your original packet have been revised and there are three new options. She will go through each one of them. There are options A through D. In each one, Option 1 is the installed price and it also includes the contingency. The Option 2 in each is simply the materials should the Township choose to have their staff install. Option A is simply landscaping. There are no hard structures; there are no fencing. It is simply a combination of deciduous and evergreen trees. That price installed overall is \$10,378.75 and the option uninstalled is \$3,585.00. The evergreen trees would be White Firs and Eastern Hemlocks, and the deciduous shrubs are Witch Hazel, Spice Bush, and Northern Bayberry. That does make the inclusion of those two areas; the one is behind the Mill House and one behind the Katz House as well as planting across the street to protect the views from Sarah Ehrhart. The evergreen trees are about 4' go 5' high and the shrubs are about 2' to 3'. Option B and C are very similar. B would be to install a wooden shadow box privacy fence. That would be 8' high, pressure treated and it would cost about \$78 per linear foot with 128 linear feet needed. Installed, that price comes to \$14,391.10; uninstalled \$4,968.00. That also does include the White Fir and Witch Hazel to be installed for the buffer across the street. They left the buffer across the street in each scenario. Option C is very similar in the fact that the fencing is the same linear footage except now it is final and the difference is \$75 per linear foot. Installed that's \$13,549.50 and uninstalled is \$4,480.00. Option D includes the wood fence and also could include the vinyl fence if needed, but right now assuming you would go with the wood fence, it includes a couple of shrubs on either side of the linear footage of the fencing to kind of tie in with the existing landscaping that is there, beautify the area a little bit and just make it less obtrusive. That's ten shrubs in total, five on each side. That price installed is \$15,950.50; uninstalled \$5,518.00. Those are the four options. If you have any other questions or concerns, they can come up with other options if need be.

Mr. Kern said he met with his neighbor who couldn't be at the meeting tonight. They would like to see by their house, as it's feet from the trail, they requested wooden privacy fencing, pressure treated and indicated that the length they thought for privacy would be about 115'. He doesn't know how much they figured on. Ms. Mallo said in front of their place it was 64', so they would like to see it extended a little bit down. Mr. Kern said that wasn't even the entire property, it was just essential areas of viewing. It would be closer to Old Mill Road where the critical areas would be. The other thing he was thinking and doesn't know what the best approach would be, near the Old Mill Crossing, where the raceway used to go under the existing railway and you are looking toward the bridge, to the right of that is an illegal ATV access point. He was thinking a fence there might be the best deterrent and it's only about 30' in that section from the existing old rail fence where they could no longer get access. Mr. Cahalan said they could consider putting split rail

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fence there as they are going to put that fencing on the bridge approaches. That would be appropriate and they will look into it. Mr. Kern said in that exact area he just described, there used to be natural vegetation screening which he tried to protect through the construction phase, and he failed at protecting it, so now people can look up at him in the bathroom. Mr. Cahalan said Option B, increase the linear footage. Mr. Miller said for one of them it would be \$3,978 and for two of them it would be twice that, just shy of \$8,000.00 just for additional fencing. Ms. Mallo said that's installed. Mrs. deLeon said in the other municipalities, are there areas that come close to houses also? Mr. Cahalan said not as close as this area. The house that Fehlig's and Humphrey's own, you can almost reach from the trail and touch the house. He doesn't think that's the case in Hellertown. In Upper Saucon, there are houses along the trail, but they also put up a lot of the rail fencing. Mrs. deLeon said what did they do when the trains went through there? Mr. Kern said there was natural vegetation screening. Mrs. deLeon said when they took this vegetation out, was it on SEPTA's property? Mr. Kern said yes. In Upper Saucon by the houses, they have nothing but fencing on their portion. Ms. Mallo said installed to increase to 115' behind the Mill house is \$13,962.00 for just the fencing.

Susan Katz said it's so expensive, and she hates adding to the expense, but in the summertime the kids take their bikes, even when the trail wasn't a trail and it was just tracks, they are following the high tension wires and come down there which is an issue. The idea of having a whole tunnel of fencing is a shame. If the shrubs were big enough now, she would prefer that. It's going to be awhile though until it gets there. Mr. Maxfield said would you prefer the proposal or the 115' of fencing. The proposal is for 64'. Ms. Katz said this is fine. If it's possible to extend it or add something, maybe some bushes, so the kids won't come down that way. She asked if the shrubs were native to the area? Ms. Mallo said yes, that's why they were selected. Ms. Mallo said to install 115' on both houses, it increased the fencing number installed to \$17,940.00 and uninstalled to \$7,130.00. Mr. Kern asked who was doing the installing? Mr. Cahalan said they would have to bid it out. If it's not installed, he would have to speak to Roger at Public Works and they might be able to do it in-house. Mr. Joel Katz said Plan D sounds to be better. What concerns him is that the way his house is oriented, there are two kitchen windows that face that trail, which may or may not be covered and there is a bedroom on that side. The rest is their living room which doesn't have windows on that side. If you could extend it to cover the windows, that would be a big help.

Mr. Maxfield asked if there were any easements for putting in fencing where the overhead utility line is. Will they require access to all parts of it? Mr. Miller said he doesn't know whether it's just a line easement. If it's a line easement, then you can't generally put it under the line. If it actually has a right-of-way width, which he suspects it doesn't, then they wouldn't want you putting any structures there at all.

Mr. Kern said another thing he forgot to mention was that his neighbors indicated that any type of shrubbery wasn't even necessary on their stretch, and that would save money. Mrs. deLeon said would that be an option and if we have to wait for the shrubs to grow, why can't we just put a fence in? Ms. Mallo said the fence is 8' immediately and you don't have to wait for it to grow. Mr. Maxfield said 115' of fencing is a lot of fence. Mr. Kern said there may be some vegetation that may sprout up. Mr. Maxfield said he doesn't have a problem with fencing and some trees. He doesn't have a problem with the wooden fencing, but on the vinyl, does the shadow box prohibit or discourage graffiti? When he looks at the vinyl, it looks like you can just write on it. Ms. Mallo said the vinyl would be easier to clean. With the wood you can sand it. Mr. Maxfield said there are products you could buy and will make it easier to clean off. Mr. Cahalan said if we could move ahead with just the fencing, we could get it up a lot quicker and would serve the purpose. If there are additional plantings that are needed, we could discuss that with the residents. Ms. Mallo said this is just the fencing portion of it and it probably increases the contingency slightly. Just the fencing alone increases from \$9,984.00 installed for 128 linear feet to increase to 230 linear feet, \$17,940.00. Mr. Cahalan said they could bid it and it could possibly come in lower. Ms. Mallo said uninstalled for 230 linear feet for both houses, the price would be \$7,130.00 as opposed to the \$3,968.00 that is listed. For 115 linear feet for the Mill house, it was \$13,962.00 installed and

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uninstalled was \$5,549.00. Mr. Maxfield asked about the plantings? Mr. Cahalan said they will just do the fencing and it would serve the purpose. Ms. Mallo said A, B, and C did include the landscaping, and if you want to take that out, it would decrease the price slightly. Mr. Cahalan said could you isolate the cost without the landscaping? Ms. Mallo said it would be \$2,530.00 would be removed from that, and uninstalled it's a flat \$1,000.00 if they didn't do the landscaping buffer. Mr. Maxfield asked if the split rail fence could be installed by Public Works and have it occur simultaneously with the other fence? Mr. Cahalan said Public Works has a lot on their plate, so they will have to work overtime to get it done, but it's important to get the privacy fencing up as soon as possible if we are going to open in May. He can talk to Roger about it.

Ms. Mallo said assuming we were going with Option B1 installed, the landscaping buffer for seven white firs, \$1,750.00. For twelve Witch Hazel shrubs, \$780.00; for fencing at a length of 230 linear feet installed is \$17,940.00. Currently it's shown at 128 linear feet, and we are talking about increasing it to 230 linear feet, which takes the \$9,984.00 to \$17,940.00. That's everything installed.

Mr. Maxfield said they just picked 115 linear feet out of the air, and Mr. & Mrs. Katz said they possibly need a little bit more. Can we examine that particular area a little bit more and maybe we'll end up with a little bit less than 115 linear feet and keep the Katz's happy at the same time. Mr. Katz said he can't measure the feet from the chart he has, so he doesn't know the answer to that question. It looks to him, if you see the line on the electrical line, if you move to what is shown as trees, just to about three or four feet past that electrical line, that would do it for them. Mr. Kern said that may be less than 115 linear feet. Mr. Maxfield said it may be 64 linear feet still, but maybe just relocate it. If they were to vote on it and vote on a maximum of 115 linear feet, he'd be comfortable. Ms. Mallo said Valerie from their office has gone out and walked it at numerous times and taken pictures, and she came up with the 64 linear feet based on the houses, and everything else. If she goes back out and meets with the Katz's, and sees where the windows are, an exact linear footage can be determined from that. She doesn't think it will go over 115 linear feet.

Ms. Katz said she doesn't want to look at a lot of fencing, but they just want the security and privacy from their deck. Mr. Maxfield said that's why he would like them to come out and talk to them specifically.

MOTION BY: Mr. Maxfield moved that we approve this expenditure with the numbers recently quoted by Ms. Mallo of \$17,940.00 for 230 linear feet of fencing installed price, not to exceed, and a non-installed cost Option B2, for seven White Firs is \$700.00, for twelve Witch Hazels, it's \$300.00; and for 230 linear feet uninstalled of wood shadow box fence, pressure treated, it's \$7,130.00 and should include the plantings on the other side along the trail; and a consultation with the Katz's occurs with regard to the fencing along their property and position of it.

Mr. Cahalan said he will address these concerns as soon as possible.

SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone had any questions or comments? Ms. Brown said this is only a 30 year lease on the trail, what happens in 30 years? Mr. Cahalan said the plantings and fencing would remain. It would be on the portion of the property leased by the Township. Ms. Brown said you were talking about putting evergreens and Witch Hazel in the same area, what kind of spacing will there be? Ms. Mallo said the White Fir is about 4' to 5' in height and probably spaced about 15' apart. Ms. Brown said how far is the Witch Hazel from the fir trees? Ms. Mallo said from center to center, it looks about 15'. Ms. Brown said she planted Witch Hazel and they died and she was told they were not supposed to be planted near fir trees. Ms. Mallo said that's not her area of expertise, but she will look into that. They have been paired together before without issue. Ms. Brown said one of the things Ms. Katz was talking about with the mountain bikes; there are some people who ride mountain bikes on trails and some who will go

off trail. She sees it when she goes to the Parkway in Allentown. It is a big concern. How is the Township going to address that? Mr. Holum may have a big issue with that as you weren't willing to put up "No Trespassing" signs, how will you address that throughout the trail? It's hard for her to understand that historic structures in this Township are such a big thing. She understands that people want privacy, but why do the taxpayers have to pay for it. When a road went right next to her Father's house and people could look right into the pool, no one offered to put up a fence for her. Why doesn't the individual taxpayer put up their own fence if they don't like that the trail is right next to their house. When she was having lighting issues with her house, apparently the Zoning Officer came and told her she needed to put curtains up, so why is not the same remedy being told to these people. It seems like a similar situation. She was told when she didn't like the sidewalk so close to the pool, she needed to put a fence up. She doesn't understand why the Township is paying to put fences up. She could understand putting some plantings in. This is a historic district and she doesn't know why the Township is trying to hide it. That would be like putting up a fence at the Heller Homestead or Lutz-Franklin. Mr. Cahalan said he mentioned that residents had come to the Saucon Rail Trail Advisory Committee meetings with a variety of privacy issues and security issues such as trespassing. Those are two different issues and are being addressed separately. He knows Ms. Brown was at some of those meetings, so if she recalls many times at those meetings, on the security and trespassing issues, they would deal with them on a case-by-case basis. They mentioned that at the last meeting. On the 26th, he will have the bike officer at the meeting who will talk to the residents about those concerns. There's the trespassing concern with people on the trail going off the trail and Council just advertised rules for people to stay on the trail and do not go onto private property. There are also issues of people coming from private property onto the rail trail. Mr. Kern had mentioned about an ATV trail there and they indicated they would address those. Each time someone indicated there was an issue, he said they will deal with it on a case-by-case basis as they are all unique. The buffering they are offering and what the Township is considering tonight is a standard reaction from just about every rail trail that goes in. Primarily it was an abandoned rail line, which was dormant in people's back yard and all of a sudden it's activated and people are running and walking on it, and the normal reaction from Rail Trails organizations is to work with the residents and to offer some options for buffering. What Council is considering doing tonight is basically standard operating procedure for any Rail Trail. He thinks that's what they are considering. He doesn't think it's hiding the historic area. If someone wants to take a good look at those houses, they can go out on Old Mill Road and they can get a good look at the house from the front. They can walk over the Old Mill Bridge. They don't have to go in anybody's' back yard to appreciate the historic area. That's not the intent and they wouldn't encourage it. Ms. Brown said when people entering private property, you are saying the Township doesn't want people entering the Rail Trail from their own property? Mr. Cahalan said he doesn't know where they are coming from. All the property along the Rail Trail is private property. If they are doing it with a motorized vehicle, the Police will deal with that and if they see trails, they will try to block them off. He's seen people already doing that. Ms. Brown said her concern is there's a problem still at Meadows Road with the water drainage, and she's wondering why that hasn't been addressed? Mr. Cahalan said that it has been addressed and Mr. Holum had sent him photos. There was a couple of inches of rain that came down and according what he discussed with staff, there was a fix done there to raise the trail with gravel and then they put the trail on top of that. It opens up a bigger area for the storm water to come down Meadows Road and go into the Rail Trail. From the pictures Mr. Holum showed him, it looks like that's exactly what happened. A lot of water coming down, the bridge was closed because of the flooding, and a lot more water filled up in that area and covered the trail. The next day the water is all gone, no standing water at all according to the pictures he took, and no disturbance to the Rail Trail. Literally, that Rail Trail could have been used the next morning after that heavy rain storm. He was on the Upper Saucon portion the next morning and there were areas where there were erosion and some standing water. Ms. Brown said for this motion and this vote, since Mr. Kern lives in this area, should he abstain? Attorney Treadwell said in this instance the motion isn't benefiting Mr. Kern financially in any way, so no.

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Mr. Holum said he had some questions. His first question is the Meadows Road issue and Mr. Cahalan said that has been addressed. Mr. Cahalan said it's working as the Engineer and the Public Works Director went out and there were some recommendations made to raise it up, put down more stone. As far as they can see from the pictures and the reports he got, it appears to be collecting a lot more water, taking it off the road, and the water is infiltrating and it's gone the next day. Mr. Holum said he does not agree with that. What happened as a result of putting the trail in, they leveled the ballast stone. They spread it out with the trail. The height was reduced. Now what they have is the water is running down there and just damming up there. It's really a retention pond. It's sitting on the road more so than it did before. If you look at those photos, you'll see that when he took them he was standing in water and he was standing in the middle of the road. He thinks the fix they tried is not the answer. Mr. Cahalan said this is the road that was closed due to flooding during this rainstorm. If there was water on the road, yes, there was water on the road sufficient to close vehicle traffic. It was a heavy storm. Mr. Holum said they didn't close it because of that reason. They closed it because of the flooding at the bridge, but before they closed that, the area he is talking about was more flooded than it ever was before as a result of this. He's lived there all his life, and he knows what happens and it was on the rail trail and on the intersection, the road base, itself. Mr. Cahalan said he knows there could be more water on the rail trail. Mr. Holum said it's acting like a dam and will saturate into the base. He's wondering what is going to happen in the winter time when the ground is frozen. Is it going to infiltrate into the rail base then? Mr. Miller said he's been cringing at the word fix because this is not supposed to address the drainage problems for the entire area. What was done, was the sub base was chosen to allow water to drain underneath the Rail Trail so as to not let the water go over the top of the Rail Trail. To that end, the pictures that were taken by Township staff, after the pictures you have taken appear to indicate that it is doing what it intended to do. It was not intended to solve the drainage problems for this entire area. It was to protect the trail by allowing the water to go and drain the ponding when it does happen. Mr. Holum said it's worse now than it was before. Mr. Miller said he's not surprised. Mr. Holum said you're not surprised that it's not worse than it was before and we have a fix. Mr. Miller said that's why he's been cringing at the term fix. It's intended to reduce the potential of the water damaging the trail and it does drain through there. The next day it was drained there. Mr. Cahalan said they didn't address this to fix and remove all the storm water off of Meadows Road. What they did was enlarge the capacity of the Rail Trail to hold more of the storm water and have it drain. That's what they did. He would say he is surprised to hear him say it's worse out on the road. If more of it can go onto the trail without backing up on the road, he'd be surprised to hear its worse than it was before. Mr. Kern said are you saying prior to the big storm we had, the drainage was worse? Mr. Holum said as a result of this fix, it's now worse than it was before. Mr. Kern said are you talking about a normal rainfall? He would call the storm we had abnormal and he would expect there would be ponding. Prior to that, did you notice similar results? Mr. Holum said no, not to this degree. He believes what was happening before is the water was just racing down Meadows Road and going all the way down. There was a portion that was going to the Rail Trail but a large extent of it continued down the road and eventually went down to the bridge and flowed into the Saucon Creek. Now we have more of a ponding issue than we had before. Mr. Miller said he understands exactly what Mr. Holum is saying. Mr. Holum said what he thinks they should do is clear out the siding and take some of that debris out of there, some of the trail cover that is lying there. He was trying to pick some up the other weekend and picked up three or four bags of garbage. That has to be cleaned out. Mr. Miller said he does know they've looked at the drainage in that area. He does not have knowledge of that being looked at, but he will take a look at what Mr. Holum suggested and get back to him. Mr. Holum said probably number one on the list is to remove the Jersey barriers that are there. They act as a dam. Mr. Cahalan said those are there to close the trail and it does dam up some water. They should be out of there in several weeks. Mr. Holum said back to the fence, they are going to look at problems on an exception basis. If someone says they have a security problem, then the Township is going to address them. He has never spoke up and said he is going to have a security problem. If he speaks up, can he get fencing? Mr. Cahalan said he

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heard him mentioning his issues at four or five meetings. Mr. Holum said it never seems to get addressed until it comes here to Council. Mr. Cahalan said it does get addressed. He answered him and said for your particular concern, they would have a police officer come and talk to him. He thinks Mr. Holum is talking about the issue of the stones being thrown on his property. You acknowledged that on an email and said you would discuss it with a police officer. The other thing with the trespassing, Ms. Brown mentioned it before about putting up the signs for "No Trespassing" and Mr. Cahalan said we are not going to put signs up and down the rail trail. Mr. Holum said he took care of that. The water situation is one concern and he wrote to Mr. Cahalan about the safety on that bridge. Mr. Cahalan said he asked the Solicitor look into that. The bridges that span the Saucon Creek, one at the Old Mill crossing and one that's north of Meadows Road, we inherited them with steel railings from SEPTA that were circa 1917. They were broken in several places and on the bridge that Mr. Holum is talking about, it had no railing on the western side of it. When they talked about putting a 10' wide trail down the middle, they wanted to focus the use in the middle of those bridges, so they came up with plans to put wooden railings on those bridges. When that was done, they removed the steel railings. That leaves an area outside of the wooden railings to the edge of the bridges, and Mr. Holum sent in some pictures of people who are on the Rail Trail, even though it's not opened yet. On the pictures, it looks like the trail users parked their bikes, crawled through the fence, and went over and plopped down on the edge of the bridge. They are sitting on the bridge. Mr. Holum sent that in and he's concerned there is an accident waiting to happen and that he feels if the steel railings were left up there, that would be less of a potential problem. Mr. Holum said that's correct. Mr. Cahalan said he feels that leaving them up in the condition they were would have created an area where people would have gone in there and had a false sense of security and would have been leaning over the railing and he doesn't think they were very safe to begin with and could have caused a situation of an accident. He did ask the Solicitor to look into it. Attorney Treadwell said as a municipality, there are very limited instances where you don't have immunity from a lawsuit for some type of injury. One of those limited instances is where you own or are in possession of property like you are with the rail trail. The only way that you can be liable for someone injuring themselves in this type of an instance if a court were to determine that the actions that you took in putting up this wooden fence was in some way negligent; that you didn't do what a reasonable person in this circumstance would do. When he looks at this and you see the pictures of the iron railing that was falling off of there before and the wooden fence we put up, it seems to him it would be a pretty reasonable thing to do to try to prevent people from falling off it by accident. You can never prevent somebody if they want to get to the edge of there if they want to get to the edge of there. You can go around it. You can go over it. You can do any number of things, but what putting up the wooden fence has done is it has prevented people from accidentally going over the side of it. If they are determined to get to the side, they are going to get to the side. He doesn't think it's a huge liability issue for the Township, and one of the things that Mr. Cahalan mentioned as a possibility was you could put up signage saying "danger" or "don't crawl through the fence", but sometimes that works in the opposite direction and they say they have to try this and they crawl through the fence. You could put some mesh in-between the wooden things, but when you do that, he's had this problem with detention basins and there's always a question of should we put up a fence to stop people from getting into the detention basin and the other side of that argument is they are going to get in if they want to get in, have they created a bigger problem by not letting them out once they got in by putting up a fence. You can always argue either way, but it always comes down to have you acted reasonably and it appears this is a reasonable way you have warned anybody on using the rail trail that it's probably not a good idea to go on the other side of the fence. The other issue that comes up in those liability type litigation issues is, was the person who injured themselves more negligent than the Township was. If we feel we did the right thing to prevent people from accidentally falling over it and somebody decided to crawl through it or over it, and fall off it, then there's a pretty good argument they were more negligent than the Township was. Mr. Holum said he's not sure if he agrees with the classification of an old iron fence. That iron fence or railing that preceded this wooden fence, he actually worked on it and sanded it down and had that painted when it was

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owned by SEPTA and there was one section that was taken out because he had fixed it and people vandalized that railing and threw it down in the water. The rest of that railing was strong. It's in about 14" or 15" of cement. It was something you could lean against and it wasn't going to cave in. He feels this new fence creates more of a problem than it did before, but he's not a lawyer. He asked where are the rules going to be posted when we first open so all these people know these rules? Mr. Cahalan said they will do it at every area where people will access the trail. It will be at the start and the finish and at any of the crossings where people would enter the trail. Mr. Holum said is our listing going to be more thorough than Upper Saucon's? Mr. Cahalan said ours is longer because our park rules happen to be longer than theirs were. Hellertown's looks about as long as ours does. They have 22 listed. They did the same thing and took their Borough park rules and added a couple more prohibitions.

Ms. Mallo said she has the full number now if you'd like it. She calculated out the contingency. It is \$23,540.50.

ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

F. ADDITIONAL OPPORTUNITIES FOR JUNIOR COUNCIL PERSONS

Mr. Kern said Council requested at a previous meeting that staff come back with a list of additional opportunities that could be made available to our Junior Council Persons.

Mr. Cahalan said they gave Council a list of fifteen opportunities for the Jr. Council persons and it ranges from training which is the only training that we could find that related to the Jr. Council positions. It has some shadowing of some members of the Township administration; having them attend meetings of the County Council, the school board, the Saucon Valley Partnership. It suggests they work on a historical project in the Township under the tutelage of one of the historic groups; work on an environmental project under the tutelage of the EAC or the Saucon Creek Watershed Association; do a drive-along with a Township Police Officer; assist Township staff in producing a guidebook to Township government. He said they noticed there was a handbook the Borough's have out that is helpful as far as giving some information on what everybody's duties and responsibilities are. Have them work with the Township Administrative Assistant on a special project or event; put them in the convertible with the Council President and the Mayor at the Halloween Parade; have them visit one of the Township fire companies and report back; Dewey Ambulance, the same thing; have them visit with area legislatures and maybe spend a day at the State Capitol; have them identify a significant need or issue and ask them to do research on it and have them make recommendations to Council and have them address it. That's our first shot at the list for your consideration.

Mrs. deLeon asked if there was a cost for the on-line Planning Commission course? Mr. Cahalan said he's not sure, he'll have to check. Mrs. deLeon said she would not be in favor of paying a cost for something, but if it's free, she wouldn't have a problem. You mentioned No. 7, Saucon Creek Watershed Association, so if under No. 6 you could mention the three historic groups. She knows Stephanie made some comments at one of the SVP meetings about expanding the program for the students and obviously not all the appointees we had for the Council position or the other boards have had the same interests. It all depends on the individual, but this is a good start on trying to expose them to other areas they could learn about government. Mr. Maxfield said this is a great list that allows someone like Jameson, who is interested in specific things, to pick and choose. He really doesn't have a problem paying for an on-line course. He can't imagine it's that much and with only a few Council members, he can't imagine it would cost us barely anything at all. He loves this list and said Mr. Cahalan did a great job. It's everything they could ask for at this point and there are all different types of experience there. He would make a motion.

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MOTION BY: Mr. Maxfield moved to accept the list of additional opportunities for Jr. Council persons, as it is.

SECOND BY: Mr. Kern
Mr. Kern asked if anyone had any questions or comments? Mrs. deLeon said she wants to reiterate that as a Township, we have a responsibility to educate our teens and that's great, but this is an appointed position and they can't make motions or they can't vote on any action and she really has an issue spending money to pay for a course. Mr. Maxfield said every other board that we have is an appointed board. Mrs. deLeon said and they make official motions and votes. Mr. Maxfield said they make recommendations, not motions. They are no official votes that are binding in any way, shape or form. This is nothing to pay for. Ms. Stephanie Brown said as a former Township resident, she finds it disturbing when the Police show up at her house one day with someone they had as a ride-along who was a college student studying criminal justice. She has no idea why he was there. He had no identification. He was dressed in street clothes. She doesn't think it should be an opportunity on this list. A police ride-along should only be in specific instances and this shouldn't be one of them. Mrs. deLeon asked if the person got out of the car with the Police Officer? Ms. Brown said yes, he did, and she was very upset. Mrs. deLeon said she has a problem with that also. Ms. Brown said she asked for as Supervisor and the Police gave her a hard time about it. Mrs. deLeon said that's putting the guest in a situation. Ms. Brown said if you are training an officer, that's completely different. Mrs. deLeon said she's been on tours in the Township with a Police Officer and she never got out. Mr. Maxfield said are you sure it wasn't an officer training? Ms. Brown said she was told he was in the Criminal Justice program. She's pretty sure he's not on the force. Mr. Cahalan said he'll look into it. He'll also come back with the guidelines for all ride-alongs with the Police. Normally the majority of those are people who are working toward Criminal Justice or something like that. He can come back with that information. Mr. Maxfield said there shouldn't be a reason for them to get out the car unless they are addressing a specific situation. Ms. Brown said at the SVP meeting, one of the things she did bring up was when she attended SV High School, there was a position with the school board and there was a student representative on there, and one of the problems was there was no mentor for that program and that is one of the things she sees wrong with the student rep program in the Township. The school district has since done away with it and there were some rumblings that the school board may bring that program back and she sure hopes they do. She would really like to see the Township add a mentoring aspect to this that your student reps have. She's sure at any time the students can go to any Township member or staff member and ask them if they could help them with something, but she'd like to see someone in a position where they could always go to that person. She thinks that's really important. This Township has a lot of very capable people to do this. Mr. Maxfield said that's a great idea. Mentors can make a difference. The list that Mr. Cahalan made up has built-in mentor positions. Mrs. deLeon said at this point, we don't know if the new Planning Commission training has a fee or not? Mr. Cahalan said he doesn't have an answer for that.

ROLL CALL: 2-1 (Mrs. deLeon – No; Mrs. Yerger and Mr. Horiszny – Absent)

G. SEIDERSVILLE HALL WINDOW REPLACEMENT BID – AUTHORIZE ADVERTISEMENT

This agenda item was tabled.

VI. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF APRIL 6, 2011 MINUTES

Mr. Kern said the minutes of the April 6, 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.

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MOTION BY: Mr. Maxfield moved for approval of the April 6, 2011 minutes.
SECOND BY: Mr. Kern
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

A. APPROVAL OF MARCH 2011 FINANCIAL REPORTS

Mr. Kern said the March 2011 financial reports have been prepared and are ready for Council's review and approval. Does anyone have any comments? Mr. Maxfield said another fine job.

MOTION BY: Mr. Maxfield moved for approval of the March 2011 financial reports.
SECOND BY: Mr. Kern
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS – None

VIII. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER

➤ Mr. Cahalan said in your packet, it is getting to the time of the year when we have done the traffic counts for the casino traffic. Jim Milot from Hanover put this together and what he's proposing to do is do the traffic counts at the same intersections and roads that we did the previous time. That would be the collection and summation of 24-hour traffic volumes at Route 378, north of Mountain Drive and he would do collection and summation of turning movement intersection volumes at Puggy Lane, Mountain Drive and Route 378; Friedensville Road and Creek Road; Hickory Road and Friedensville Road; Bingen Road and Mountain Drive. The cost for that would be not to exceed \$3,250.00. They will do that in May and we will have those traffic figures and we can compare them to counts we did last year which were just before the table games opened. We may see an increase which we can use for our future applications to the Gaming Authority for funding. There are two on the list, under A1. is Hellertown and he included both of us in the same letter. B1 is Hellertown also. Mrs. deLeon said she talked about it at a previous meeting that we need to do Route 412 south of Leithsville. It would be the intersection of Flint Hill Road. Mr. Miller said do we have something to compare it to? Mrs. deLeon said no, this would be the first time. Most people will say people come in from I-78, but if you live in Bucks County, how do you get to I-78? You have to go on 412. Maybe the landfill has some traffic counts. Mr. Maxfield said there were complaints about truck traffic and excessive speed on Flint Hill Road. Mrs. deLeon said people from Saddle Ridge complained about landfill truck traffic. Mr. Miller said they are open to doing it, he's not sure how much weight it's going to carry if they don't have a baseline to reference. Mrs. deLeon said it won't this year, but it will next time. Mr. Cahalan said the only base line was to say that the casino did some traffic counts, but we never really made a comparison between the two. Mr. Kern said we can't do a before and after the table games. Mr. Cahalan said last year we did it in May and the table games didn't come until July, so we will be showing before and after the table games started. Mrs. deLeon said the money we get from the casino is not based on table games, that all goes to the City of Easton. Mr. Miller said it would help in the future. Mr. Cahalan said the recommendation would be in the turning movements, not just the total traffic. Mr. Miller said the question was whether or not we would be measuring 24 hour traffic volumes which would be the tubes you lay across the roads as opposed to an actual person out there keeping track of the turning movements in the critical hours. The question was what would apply. He said if you are doing an intersection, counting the movements would apply because you can't set the tubes up to get a total traffic count. Mr. Maxfield said the intersection might be more applicable than Flint Hill is. Apples Church Road is a quick cut-off from Route 309. He sees this as a heavily used intersection. Mrs. deLeon said that's still not going to get the traffic from 611. It's cutting over. Mr. Maxfield said if the counter is at the right place, it will pick it all up. Mr.

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Kern said it's picking up the traffic coming along 412; picking up the traffic coming down Flint Hill Road; and the traffic at Apples Church Road. Mr. Cahalan said if that is added, it would be another one under B. and it would increase the cost to \$4,150.00 for those traffic counts.

MOTION BY: Mr. Maxfield for approval of the cost of \$4,150.00 for the traffic counts as stated above.
SECOND BY: Mr. Kern
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

B. COUNCIL/JR. COUNCIL MEMBER

Eubin Hahn – No report

Mr. Maxfield

➤ He said he saw we got a support letter for the cable median barrier on I-78, do we have any idea when that's going to be installed? Mr. Cahalan said it's going to be some time this year. They've had meetings in Hellertown with the Emergency Services people discussing if a car goes into the barriers. He doesn't have a date, but the contracts been awarded and it's a matter of getting them mobilized and out on the highway. Mr. Maxfield said he traveled I-78 this weekend and it was scary.

Mrs. Yerger – Absent

Mr. Horiszny – Absent

Mr. Kern

➤ He said part of our rural character in Lower Saucon Township is defined by the tree canopy that we see on our roads. In the past couple of weeks, he noticed the canopy is disappearing because of whatever reason the power companies are coming in and they are devastating the canopy. The entire character of Route 378 down through Southern Lehigh and up to our Township has completely changed where there is no canopy anymore at Saucon Valley Road and it's just wide open. It's also happening at Bingen Road and all over the east side of the Township. He doesn't know what's happening and what we can do as a Township, but we need to do something. The character of the Township is changing. He's deferring to Attorney Treadwell and Mr. Cahalan as to what we can do to limit the amount of destruction of the trees and changing the look of the Township. Mr. Maxfield said he'd like to ask the staff to look into the policy that Bethlehem operates under as he thinks they have some sort of review process before any of the cuttings are done. Mr. Cahalan said with PennDOT? Mr. Maxfield said he doesn't know about with PennDOT. Mr. Cahalan said this was PennDOT. Mr. Maxfield said there's a lot of PPL cuttings going on also on the back roads of the Township. Mr. Kern said he personally talked to some of the road crews in the past years and they've been very helpful as selectively trimming and if there's a high tension wire, it's understandable. He's seeing limbs trimmed below the power lines that have no interference with the power lines. It's not just minor branches, it's major trunks that used to span out over the roads and make it look rural. He'd appreciate any support on that and let Council know by next meeting. Mr. Maxfield said the easements they use for the high tension wires are generally getting larger and larger. They may be 150' from center now. It's at least 10' on either side of the power line from the earth to heaven. That's not going to help us with any kind of scenic appearance of our Township.

Mrs. deLeon

➤ She said she just got back from the PSATs conference and it was very educational. She went to several of the sessions.

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- She said Attorney Treadwell was asked to do the street dedications, a different version for Old Mill Estates. Did he know what the status is for that? Attorney Treadwell said they still haven't provided a maintenance bond. He wasn't going to modify anything. It was the deed of dedication and it is done and it's all ready for Council to adopt as soon as they post the maintenance bond, which Ronca has as of yet, failed to do.
- She said at the SVP meeting last Wednesday, they had a representative, Tom Koehler, in charge of the bridges in Northampton County, present. He gave an update of the Meadows Road Bridge. They listened to his reasons against fixing the bridge. Apparently the Meadows Road Bridge is one of four stone bridges in the county and it's the only one he has issues with. Mr. Kern said that bridge has the most evidence of wear and tear. Mrs. deLeon said they ended the agenda item by telling him we were going to send him information from Andy DeGrucci, and his method of fixing masonry work the old way using Portland Cement. Mr. Cahalan did follow up with that the next day and we asked him to give the information to his superiors so maybe they could change the way they fix the bridge and it may last longer.
- She said there's a gaming meeting on Monday. The Township and the Borough will be presenting some of the applications they submitted. She is urging everyone to come and support the Township and Borough's presentations. It starts at 5:30 PM in Northampton County Council chambers.
- She said we received an email from the landfill to DEP regarding adding organic material as a soil amendment. If you could look at that, we need to respond. She did get a response from Jim Birdsall and Laressa McNemar and they would like to know the definition of Class A composted sludge; what the proposed mix is with, manure or other organic material; the source of these materials; and what is the source. They would also like to know what it would mean to additional ongoing truck traffic from the delivery of these soil amendments. What would be expected; how much more traffic; will the trucks hauling the material be required to be covered, protected from rain, leaching of material on the route roads; and which department would regulate this. What is crushed soil? They are asking that the demonstration site be for six months. We're asking that six months may not be long enough to evaluate the restoration of any grass surface because of different factors. She would appreciate information about the use on other sites; and what they've experienced. The only experiences she's had other than soil would be back years ago and that wasn't a good idea. There was 4' of foam flowing down the north slope into the river. If Council is okay with this, she'd like Mr. Cahalan to write a letter to IESI asking for an explanation. She has a landfill meeting tomorrow. Mr. Maxfield said we should cc it to DEP. The landfill smells already and to have manure sludge that could carry some sort of nasty stuff, this is a very strange and not productive request. Mrs. deLeon said they need a minor permit modification. Mr. Maxfield said the other thing is the trucks driving off the site carrying this on their wheels. Then we've got a whole road full of it. Mrs. deLeon said they have a truck wash. Mr. Maxfield said he's seen the truck wash and has seen the mud coming out of there after the truck wash and any car that comes in the opposite direction gets a mixture of wash and mud on their windshield and all over their car, so he'd hate that to be manure and sludge. There could be heavy metal in sludge and all kinds of nasty stuff. Sludge from what? Mr. Kern said in item No. 2 it says if the material is unusable? Who is going to determine if it's unusable? Mrs. deLeon said we have legitimate questions and she's sure there are more. You may want to ask Laressa and Jim to look into it a little bit more thoroughly. Mr. Cahalan said he can get a letter out tomorrow with a copy to DEP. Mr. Miller said weren't they just trying to work with the Township before they got DEP involved? They said we'd like to conduct a demonstration project for a period of five to six months. We would like to evaluate the feasibility before applying for the modification. Is it their intent to work with DEP during this testing or is it just to prove to the Township that it's okay by us before getting DEP involved? Mrs. deLeon said all she knows is Laressa and Jim provided comments she just read. She thinks the letter starts off with this is a follow up to our discussions on adding organic material, so this must be ongoing with DEP and IESI. We always find out when it's our

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time to find out. Mr. Maxfield said he'd like this to be copied to the EAC for consideration. Mrs. deLeon said she will bring this up at the Landfill Committee tomorrow. She thought maybe we should send an email to Laressa and Jim and see if they have anything else to add.

MOTION BY: Mr. Maxfield moved for approval to send a letter from the Township Manager as stated above.
SECOND BY: Mrs. deLeon
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

Mr. Miller said that letter is going to reference the information in the emails from Laressa and Jim. One thing that didn't make its way into the minutes was the discussion of making sure it was on the steep portion of the site. Mr. Cahalan said Jim had that in his email.

- She said we got some request from the gas lines and they will be working on them. Attorney Treadwell wrote them a letter. Attorney Treadwell said it was regarding the Township or any local municipality's ability to regulate natural gas lines that are under the jurisdiction of the PUC. It's really the PUC that has that authority and responsibility. He mentioned in the memo that probably the best thing the Township could do was participate in any PUC process if that's what you wanted to do, but he also said you could ask the gas companies for more information if we need more information regarding this specific location of their lines or their planned maintenance/replacement schedules are. Mrs. deLeon said we should do that. In the last sentence, it says the Township is limited to participate in PUC hearings and meetings and requesting what he just said, isn't that the way the letter went that if we had any comments, we should provide them? It was some gas company going through our Township. Mr. Maxfield said looking at the map, the area they were showing us was an area that is pretty cleared out. It appears as Wassergass Road coming down the mountain and it's pretty wide open. 100' on either side of the line has been cleared. He wouldn't see disturbance in that area to be a real problem; however, at the very bottom of the slope, once you cross Wassergass Rod, there is a pond and part of this is about water protection. You really should have an E&S done to protect the pond. Mrs. deLeon somebody should look into that letter we received as a notification to this process to see if we can get some information from the gas company and maybe write to all the gas companies and ask them about what is in our Township. If that is an opportunity for us, it would be good to know for emergency management people also. She's sure it's covered in our EOP, the location of these gas lines. Mr. Maxfield said Roger Rasich knows where every gas line is in the Township. He's very aware of it and you should tap him for some info.
- She said History Day is on Saturday, May 7th.

D. SOLICITOR

1. HOYT CINEMA TAX SETTLEMENT

- Attorney Treadwell said if you recall, Hoyt Cinema on Route 378 filed a tax appeal in 2009 and they have reached an agreement with the County of Northampton and the school district and the Tax Assessment Board. What that agreement says is the fair market value of their property over there was previously set at \$1,680,600.00. What those parties that he just mentioned have agreed to was that the value will be reduced to \$1 million based on a lot of factors that go into it. As the Township, we are also a party to this appeal, so he'd like your permission to sign this settlement agreement that's already been signed by the Cinema people, the school district, the County Board of Assessment and Northampton County.

MOTION BY: Mr. Maxfield moved for approval as stated above by Attorney Treadwell.
SECOND BY: Mrs. deLeon
ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

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E. **ENGINEER** – No report

F. **PLANNER** – No report

IX. ADJOURNMENT

MOTION BY: Mr. Maxfield moved for adjournment. The time was 9:45 PM.

SECOND BY: Mrs. deLeon

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

ROLL CALL: 3-0 (Mrs. Yerger and Mr. Horiszny – Absent)

Submitted by:

Jack Cahalan
Township Manager

Glenn C. Kern
President of Council