

I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, May 6, 2009 at 7:01 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

ROLL CALL: Present – Glenn Kern, President; Tom Maxfield, Vice President, Sandra Yerger, Ron Horiszny, Priscilla deLeon, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Brien Kocher, Township Engineer; Linc Treadwell, Township Solicitor and Judy Stern Goldstein, Boucher & James. Stephen Prager arrived at 8:25 PM.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

Mr. Kern said Council did meet in Executive Session prior to this meeting to discuss potential property acquisition within the Township.

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

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

III. PRESENTATIONS/HEARINGS

A. RESOLUTION #49-2009 – RECOGNIZING OFFICER VICTOR KOSZI UPON HIS RETIREMENT

Mr. Kern said Resolution #49-2009 has been prepared to recognize Victor Koszi for his years of service as an Officer with the Lower Saucon Township Police Department.

**PROCLAMATION HONORING VICTOR S. KOSZI
UPON HIS RETIREMENT**

WHEREAS, Victor S. Koszi III began his career in Lower Saucon Township when he was hired as a full-time police officer in December, 1985; and

WHEREAS, Officer Koszi was instrumental in the establishment of the D.A.R.E. Program as an annual class in the Saucon Valley Elementary School in 1993; and

WHEREAS, during his career as a police officer, Officer Koszi served the Department as Crime Prevention Officer, CPR/AED instructor, was certified as a Child Safety Seat Installer and in the

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weighing of overweight vehicles, and helped establish the first bike patrol team in Lower Saucon Township; and

WHEREAS, during his career, Officer Koszi met with countless youth groups to give police department tours and talks on bicycle safety and crime prevention, and appeared at many local carnivals/festivals to provide information to the public on the “Child ID” program and other community services; and

WHEREAS, during Officer Koszi’s employment with the township, he was the recipient of the Governor’s Highway Safety Award for Safety Education in 1994 and also received a Lower Saucon Township Community Service Commendation in 2001; and

WHEREAS, Officer Koszi was a genuine “community police officer” long before that term became popular; and

WHEREAS, Officer Koszi retired from the police force on April 30, 2009 after more than 25 years of service to the citizens of Lower Saucon Township.

NOW, THEREFORE, the Council of Lower Saucon Township, Glenn Kern, President; Tom Maxfield, Vice President; Priscilla deLeon; Sandy Yerger; and Ron Horiszny do hereby declare the week of May 4, 2009 as Victor Koszi week and does hereby urge all residents to commend Officer Koszi for his dedication to the Township.

MOTION BY: Mrs. deLeon moved for approval of Resolution 49-2009- Recognizing Officer Victor Koszi Upon His Retirement.

SECOND BY: Mr. Maxfield
Mr. Kern said having children himself in Saucon Valley School District, his kids know Officer Koszi very well know - he served the community well. Mrs. deLeon said I’ve been on Council for a long time and Victor and her go way back and he’s always been a real good officer and we’ll miss him. Mr. Kern asked if anyone had any further comment? No one raised their hand. Mr. Cahalan said Victor could not be here this evening as he is in training at the casino tonight.

ROLL CALL: 5-0

IV. DEVELOPER ITEMS

A. ZONING HEARING BOARD VARIANCES

1. DAVID CLAIR & CARLA CHIAPPELLA – 1965 QUARTER MILE ROAD – VARIANCE REQUEST OF FRONT YARD SETBACK FOR GARAGE AND HOME ADDITION

Mr. Kern said the applicant is requesting a variance of the front yard setback to construct a garage and an addition to their home.

Carla Chiapella was present. She said she had two drawings. Her and her husband bought this house with the idea of enlarging the house. It has a two car garage. They want to do the addition in the back and also want to put in a four car garage. There are two problems. One is the house was apparently built with the setbacks being 35’ and now they are 50’ from the roadway. The garage is within the current setback limits. They wanted to add on another two cars to the garage, which would therefore be out of your setback allotment. They are kind of stuck with that situation because that’s where the home is built. The other problem with this and that’s why she brought pictures - the first photograph, which actually has a telephone pole on the right hand side and the house is on the left hand side – the

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telephone pole is the marker where the yard is. You can see on that and the next picture that it's on a hill. The picture in the middle shows the house itself, which is the brick structure and the garage is the whiter structure. That's the driveway and if you look at the next two pictures, it shows that the drainage from the street, whenever it rains, drains down the curb, then right down into the driveway, and toward the house, so there's a lot of mud and debris. This is about a week after a big rainstorm, so they wanted to also fix the drainage situation with all this water and debris that comes toward the house when they change the driveway.

Mr. Maxfield said how far is the proposed entrance to the current entrance to the driveway? Ms. Chiapella said she would say looking at the drawing from the architect, because he didn't put it to scale, there's a 15' driveway and it looks like it starts 15' away from where the other tarmac entered the road, so the whole thing might have been moved down 45' from the top side of it to the more northerly side of it, which would be on your right hand side. Mr. Maxfield said what is the reason you don't want to add on to the existing garage and you want to build a brand new building? Ms. Chiapella said it was because of aesthetic reasons and that wouldn't have changed the drainage situation. When I came in, we discussed would there have to be a second driveway to go down the hill farther and that was discouraged putting two driveways in because the way we put the second building in, it's more angled towards the street and it was not a popular move to have two driveway entrances because the current building is actually facing the street. If you added on to it, you would be facing a different direction or if you added on to it facing the street, so close to the street as it is, you would practically have your garage on the street. We did want to add on behind the house as well and that's why we wanted some of that room to add on to the building. Mr. Maxfield said the drawing, you say he didn't do it to scale? Ms. Chiapella said it is done to scale. This is taken off, if you look in the packet of three, the house is on there with the plot, and you can see the house is very close to the road. The house drawing didn't actually have the garage drawing on it, it had the septic system on it. Then there's another one where the garage is drawn close to the road. Those are actually all drawn as architect or survey drawings. This was copied off of the survey drawing, so it is drawn to scale. Mr. Maxfield said these look much closer to the road than the drawings lead you to believe. When you have a 30' wide stretch, in front of the existing garage, when you modify it, this photo almost looks like you don't have the room to do it. That looks pretty tight. If this is drawn to scale, the photos may be misleading too. Ms. Chiapella said the only thing she can say that might clear that up for you is if you look at the one with the street and the pickup truck, and there's a mailbox - the mailbox is at the driveway so there are two automobiles in there to scale. You could park maybe two SUV's end to end in the driveway before you hit the street. The architect did do measurements and said they were to scale. Mr. Maxfield said which of the plans you presented us with are the ones you intend to go ahead with to the Zoning Hearing Board (ZHB) because I think you could only present one plan and we can only consider one plan? Ms. Chiapella said she would probably pick the one where the two garages are perpendicular only because the retaining wall issue would be expensive, so it would be B. The original one, there probably be a retaining wall and that is expensive, I'm told. Mrs. deLeon said if the retaining wall is there, it's supposed to prevent the runoff coming off the driveway? Ms. Chiapella said we are trying to move the driveway down and create a drainage system that it will drain on the other side. Mrs. deLeon said is it going to hit the wall and bounce over? Ms. Chiapella said the drainage system would occur at the entrance to the driveway, so hopefully the drainage would not keep coming down into the driveway the way it is. Mr. Kern said does this have to get reviewed by staff - any type of changes that are made to the drainage systems? Ms. Chiapella said there isn't a drainage system right now. Mrs. deLeon said right now the way the water is running on everybody's property, I don't know if we have any runoff problems. Mr. Kocher said I don't know if it qualifies for a grading

plan or no. Chris may know the answer to that, but if it does, then yes, the staff has to look at it.

Mrs. deLeon said is there a problem there now if it's only contained to your site? Ms. Chiapella said it's only contained to our site. Mrs. deLeon said the water has to go someplace else, so we don't want to sit here and create a problem for your neighbors. Ms. Chiapella said one of the reasons I included the pictures from a distance with the telephone pole – the telephone pole is our property, so this house is way up on the uphill side of the property so the drainage can go down our property, as it's on a slope. It would not go into the neighbor's yard in anyway and I'm not increasing the drainage from any street. The drainage from the street is the same amount as before and after, so whatever is currently would be the same amount afterwards. Mr. Maxfield said even with a variance if it meets that magic number of impervious coverage, you still have to address storm water. Mr. Kocher said that's correct. Chris usually has them do the variance first before going through that procedure. Mrs. deLeon said if they get the variance from the ZHB, he will determine afterwards? Mr. Kocher said correct.

Mr. Maxfield said it doesn't look like it's going to hit the 10,000 square feet by looking at the houses. Ms. Chiapella said it's a 2.2 acre property. Mr. Maxfield said it's not really a percentage of the property, it's a square footage. It doesn't look like it's going to hit 10,000 square feet. Mr. Horiszny said what's the black top at the top of the drawing? Ms. Chiapella said that's the old driveway. The one that is darker would be the proposed location. Mr. Maxfield said that clears up a lot of questions I have. I would ask that we take no action, but also like to add to that it is Plan B that the ZHB will be considering to make sure they know that and it is the one as specified by the applicant where the new garage is perpendicular to the old garage.

Mr. Kern said this is one of the step check points on the process of going to the ZHB and the information you present to Council - they have three options and they are to support it, oppose it, or take no action. We have no power. We are just a recommending body, at this point, to the ZHB. What Tom is saying is to take no action and let it proceed to the ZHB meaning that it's neutral.

Council took no action.

2. **BRUCE MARTIN – 3481 RESERVOIR ROAD – VARIANCE REQUEST OF SIDE YARD SETBACK TO CONSTRUCT ADDITION**

Mr. Kern said the applicant is requesting a variance of the side yard setback to construct an addition.

Bruce Martin, Contractor and Leon Hill, the actual homeowner were present. Mr. Martin said the lot is very narrow as all the lots there along Reservoir Road. We only have 100' to work with and the house being over 60' wide. The house that sits there now doesn't even meet the variance of 30' on either side. We're just looking to get by and stay within the 12'. Unfortunately, the house is set on an angle as it was built before there were any standards and if it was built straight, maybe we could do something differently. He wants to keep the house looking the way it should and not break it and make it look like it belongs there. Mr. Kern asked if there was any comment from Council? No one raised their hand.

Council took no action.

3. **PAUL & CAROLYN ISBELL – 1838 VIOLA LANE – VARIANCE REQUEST OF IMPERVIOUS COVERAGE OF EXISTING PATIO**

Mr. Kern said the applicant is requesting a variance of the maximum allowable impervious coverage for an existing patio.

Paul Isbell was present. He said this particular patio, is a brick paver patio, which was installed almost two years ago. When they came to the area, it was a brand new construction on Viola Lane. It's a ½ acre lot and we discovered, not long after we had a couple of rains the yard became pretty muddy and to the point where we really couldn't use it for awhile. We tried a variety of different options to put grass in and all kinds of things. We basically hired a professional landscaper, Paverscapes, and they came out and did an assessment and we basically said we want to use our backyard to have a patio, a table, grill, and also to have a walkway from the walkup basement we have so we'd have useable space. We did ask about a permit and since this was landscaping, and we were new to the area, our understanding was we did not have to have a permit for construction; however, we didn't realize it counted against our impervious coverage and our landscaper did ask about this and the understanding was he didn't need a permit to do the work. Had we known this would have been a violation, we would have been compliant and gone in and would have applied for this earlier. Due to the sloping of the backyard, and I did provide some pictures of the back of what the existing area was and the sloping, it was really what we were trying to do and since the patio was professionally installed, and since all that has occurred, we actually have a useable backyard. We do not have the drainage problems and it's obviously added value to the house. We are now requesting to go back and get a variance because we realize it did go over the impervious coverage limit that we have on the house today.

Mr. Maxfield said we have a setback issue also? The patio encroaches into the rear yard which is 40 feet. Mr. Isbell said yes, I believe there is. If you notice our house actually is sideways, the way it was put on to accommodate, and it was a 45 foot setback.

Mrs. Yerger said I would love to send a letter to your landscaper and inform him that he was very wrong. Mr. Maxfield said do you know who you talked to from the company who assured you that you didn't need a permit? Mr. Isbell said I don't know, as it's almost been two years, but I could try to find out. Mr. Maxfield said our laws have been in place longer than that, so no excuse on his part.

Mr. Kern said we have a challenge in the township when our Manager first came on board many years ago. I remember him saying that when he first started, how he thought that the only issue that ever came up in the township was drainage and storm water. He thought that's all that was involved as we were hearing that for many months. Your development, in particular, has been a challenging one for us as we see someone at least once a month from your development, mainly because of impervious coverage issues. The reason being that the developer built the houses the size he built them. As a result, your neighbors come in to request to build patios and whatever, and they are immediately over the impervious coverage limit because the houses are the size they are. Because of that, it's created a challenge within your development. We're getting your neighbors in once a month for exactly this. Fortunately, most of them are before they are being built. The challenge is the storm water - where did it go, it had to go somewhere. We've had houses that were built in another development where we spent almost a year and a half listening to the residents about the runoff that was created by one house built in this neighborhood. It's a serious issue and that's why the impervious coverage is taken so seriously because it's a cumulative effect. It may not seem like much when it's 2% or 3% over, but when all your neighbors are doing it, that water has to go somewhere. Mrs. deLeon said when they

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designed your development to handle the storm water, they handled it where they thought the envelope of the house was going to be, so that was all taken into consideration. Like Glenn just said, if everybody goes over a percent here and a percent there, now the existing collection system can't handle it and it's going to overflow, and it's just a domino effect all over the place.

Mr. Isbell said one hope is the fact that these are pavers. There is space between the pavers. When it rains, it's actually the runoff from the adjacent community because if you take a look at the picture of the backyard slope, you can see everything runs down into this area (he was showing pictures). When it rained, it all fell here in the backyard and it was basically a standing mud pile. Since these are brick pavers, underneath that is sand, and it really is a drainage system and the water is able to roll down into the patio instead of the street. The fact that it's not a concrete patio or blacktop, you have absorption. Just to give you an idea, here's a natural area where it would normally run, and here's what the yard would look like. Basically, imagine this, but filled with mud. It created a problem for us and for the size house we have and not being able to use the yard became a problem. Hopefully what was chosen by the landscaper is not contributing to additional runoff and additional problems because water is absorbed through the patio to go down and the fact that this patio wasn't just something we went to Home Depot to buy and threw some blocks on. It was professionally installed and it was a rather expensive project to undertake. We wanted to make sure with the value of the house, we didn't want to put something in there that was junk and to add value to the community and to the house.

Mrs. Yerger said when you were showing that picture, where is that now? Mr. Isbell said if you look here, as the patio is over here, this area of our yard is completely open, the part that is the illustration is the part of the yard that obviously, in this area over here, where you can see the runoff coming from the Arden Lane community, runs down the slope. It starts and runs completely down, so just to illustrate before we had the patio, this was basically our back yard, and we've seeded, we've added, but because of the standing water, it takes a while for the water to go down. Our yard became pretty much unusable for a day or so. This was the problem we were trying to solve.

Mr. Maxfield said I guess my feeling is that problem should have been solved in a different way. It should have been solved probably by a person who is professionally trained to deal with storm water. It amazes me if this guy came with these recommendations from other clients that he didn't know about permitting and storm water in our Township. We have had so many requests from the Viola Lane area that what's happening is we are now getting close to where the entire neighborhood is going to be over impervious, and with many of them into the setbacks. I would not feel good about letting this one go. I think that we've had so many of these things, we need to take a position on this. We have let impervious coverage variances go and go and go and it's going to give us problems in the long run and the only people we are going to look to blame is us and I would like to recommend we oppose it. I would also like to recommend that we send a letter to the ZHB explaining why we opposed it and we would probably oppose any other requests like this in the future. I know the ZHB has complained in the past about the fact that we are sending them these overages.

Mrs. deLeon said what's the consequences to the property owner who is sitting in front of us if we take that stand? Attorney Treadwell said if Council opposes it, it goes to the ZHB and the ZHB makes a determination. If the ZHB were to deny the variance application, then it would come back to the Township to enforce the provisions of the zoning ordinance that are currently in effect which would mean removal of the patio or a portion of the patio to bring it into compliance. Mr. Maxfield said the setback issue is a lot less serious than impervious coverage and that would be for the ZHB to decide also. Attorney Treadwell

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said the ZHB would basically make a determination, yes or no. Either the ZHB votes to grant the variance as presented or to deny it as presented. Then it comes back to the Township to enforce the zoning ordinance and according to Chris Garges memo, it's approximately 517 square feet over the impervious, so the enforcement from the township's perspective would be to remove that 517 square feet and bring it back into compliance with the current 25% limit.

Mrs. deLeon said how big of an area is that? Mr. Isbell said basically it would be removal of most of the patio and I would have almost \$14,000 that I would have to remove and end up with an unusable area. What amazes me is Toll Bros., whom we purchased this property from, was allowed to build a house that was too big realizing that most homeowners, and I'm sure many of you here have a patio in your backyard, you have a grill, you have tables and chairs and you probably go outside and entertain in the few months we can, so basically what would happen to me is that I would be denied that privilege. I paid over \$780,000 for this house. I pay over \$12,000 in school taxes, and when I add in all of my income taxes, almost \$20,000 a year that I pay to Northampton County and to Lower Saucon Township, and basically I would be denied these privileges because I purchased a property, and if I would have known I couldn't add or do anything to that, I probably wouldn't have bought this property. Mr. Kern said the Township has no control over what the builder builds as long as he builds something which is in compliance, which the builder did. Mrs. Yerger said it's what is put there afterwards that makes it out of compliance and that's what they are not telling you. Mr. Isbell said I understand there are other neighbors that have exceeded their impervious and they were granted. Mr. Kern said there may have been some initially that the ZHB may have granted, but once we realized the influx that was coming from Viola, we have not been granting anything when it's impervious. Impervious is the key word we are looking at just because of the challenges it incurs.

Mr. Horiszny said if it did come back to us because it was in violation, would it be possible that, we could check with a storm water specialist to find out if that did in fact improve the situation with the pavers being there before we have him remove it? Attorney Treadwell said the question is, if the ZHB denied the variance application, the way the ordinance is written, there's a 25% maximum impervious coverage, so it doesn't matter if it's at 27% and it drains well or it's at 27% and it doesn't drain well. You can't be at 27% unless you have a variance.

Mrs. deLeon said she happens to live on a hill and I have a brick paver patio in my backyard and she understands what you are saying. When we used to have a concrete patio back there, the water would just lay there, but now it does go through.

Mr. Kern said he doesn't hold Mr. Isbell responsible for this at all. It's the contractor. He should have known better. I don't know what to do. Mr. Maxfield said there's not much we can do. You may have paid all that money in school taxes and all that, but no one except the people of the community are going to have to pay for storm water problems that result from this type of development. That's the problem. It's going to cost the people of the community money. No one is going to come back to you when their house a street down floods. I still want to oppose it. Realize that we're a recommending body. We are not saying yes or no. You may go to the ZHB, plead your case and they may say it's built already, that's fine. Attorney Treadwell said to clarify that point, you are not even a recommending body. It's before you to take a position one way or another or not to take any position at all. Council doesn't make recommendations to the ZHB. Council goes as a party to the ZHB and in most instances if that's how Council chooses to vote in opposition to an application as a party, and not as a recommendation to the ZHB.

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Mrs. deLeon said another thing we have to consider is this subdivision you bought into was in litigation for many years and a lot of the regulations were grandfathered with some of the things, so when a property owner comes before us, today if we were creating the same subdivision and a developer came before us and presented this to us, it would never fly as it wouldn't meet today's standards. We would have restrictions on the envelope of the house. Mr. Maxfield said they are meeting the setbacks. Mrs. deLeon said you still have the setbacks. Ms. Stern Goldstein said we've added natural resource protection calculations, but that would have not affected this. On an individual lot, there's a maximum impervious and people have the right to go up to that impervious, but people have the choices when they are picking out the house they want to build, and when they push the envelope, it limits on the back end what they can do after that whereas if they put something smaller on the lot, they would have more choices or options. Mrs. deLeon said unfortunately, how many houses do we buy in a lifetime and you live and learn. Mr. Isbell said had he realized that, he probably would have located to a different area. Mrs. Yerger said you said the number one problem in communities today is storm water in PA. It's something that municipalities across the state are struggling with. It's a major issue in PA.

Mr. Isbell said I would be willing to pay for someone from the storm water perspective to do an assessment. Mrs. Yerger said I'm wondering if there's some way we could increase the infiltration in what he's got. Mr. Maxfield said our ordinance is very generous when it comes to percentage of impervious. The studies that have been done in other stages that have similar problems like us is the 7% mark notices negative impacts. We're clear up to 25% in these smaller lots. If you want to take the entire Toll Bros. area and take 25% of that out, you can imagine what the problem is. I don't think it's our position or job to solve this problem. It's our job to take a position and refer this on to the ZHB and let them deal with the actual do or don't part of it, but we need to express, as a Council, and say that this is not the way the Township will be constructed in the future.

Mrs. Yerger said my concern is that not all of Viola Lane has built out their entire backyards, so my concern is we need to stop it now. Your neighbors need to know it now because they are so close to the maximum impervious coverage just with the house itself. One of my main concerns is I don't want to see five more neighbors come in and have to deal with the same situation that you are stuck with.

Mrs. deLeon said what we've done is ask people to go back and relook at your proposal and come back, but this is already existing. Mrs. Yerger said it's brought them into compliance then. It may not be as big a patio as they want, but it's that compromise. Mrs. deLeon said the MPC sets its guidelines for exceptions. Attorney Treadwell said for variances. Mrs. deLeon said this is what we have and if this wasn't here, he'd have every right to come here and ask us to do this. I just feel bad you are in this position. I'm with Glenn. Mr. Kern said one of the goals we would like to see is that the community understands the impervious issue that is there in the neighborhood. What about if we make Mr. Isbell the poster child for the issue at hand and if we don't do anything, that he doesn't have to agree to it, that he understands he communicate to the neighbors "what I did is the last time this is going to happen and the reason is for the impervious" and he becomes the mouth piece for the neighborhood that impervious is an issue.

Mrs. deLeon said, what if we follow that up in letters to every property owner? Mr. Isbell said there are about four or five lots that are still available. Mrs. deLeon said and document what's there and what's not. Mr. Isbell said you may have the sizes of the properties. Some of the properties are much smaller homes. I don't know how the enforcement is for the existing lots that are there. You have to say you can't build a house more than x. Mr. Maxfield said we don't have control over that. Mr. Isbell said communication would be good. Mrs. deLeon said this has been built over two years and

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the township wasn't aware of this before you came in? Mr. Kern said how did it come to the township's attention? Mr. Isbell said I'm not quite sure. We got a letter from Chris, potentially with regard to there's a fire gate separating Arden Lane that enters into Viola Lane. We did have a hot tub that was there and we did get a permit. I think when they were there, they were looking around and there was an inquiry.

Mr. Maxfield said I like the direction you are going, but what will we tell the very next applicant who is applying? Mrs. Yerger said indirectly, I don't want people doing it and then going oops. Mr. Horiszny said most of the ones we had on Viola Lane, we asked people to reduce their impervious coverage to stay within the 25%. Mrs. deLeon said for the ones we've asked to scale back, was it exactly 25% or was their initial proposal more than 1% or 2%? Mrs. Yerger said we made them try very hard to stay within the limits of the impervious coverage because it's such an issue. We worked very hard with them to get them under the impervious coverage as it's such a major issue. Mr. Cahalan said it ranges from about 1% to 5% over. Mrs. deLeon said we have allowed that? Mr. Cahalan said no, I'm just saying that's what the requests have been in this particular subdivision.

MOTION BY: Mr. Maxfield moved - I would like to recommend we oppose it. I would also like to recommend that we send a letter to the ZHB explaining why we opposed it and we would probably oppose any other requests like this with this nature in the future. I know the ZHB has complained in the past about the fact that we are sending them these overages.

SECOND BY: Mr. Horiszny

Mr. Maxfield said the motion was also to send the letter, are we interested in that part of it, to send it to the ZHB explaining that we want business to change. Attorney Treadwell said Mr. Maxfield, please clarify your motion as there are different ways to oppose an application in front of the ZHB and one of them is to send myself to oppose it, which I take either Brien or Judy or someone from one of their firms as a witness to explain what the issues are. The other way, as Mr. Maxfield phrased it earlier, is to send a letter to the ZHB saying we're opposed for the following reasons and not send myself or someone else.

Ken Laliwala said he's from the same community, 1850 Viola Lane and my variance is next. I understand where the township is coming from as far as the impervious coverage. I came from NJ to this community, and I had no idea about impervious coverage, bought a new house from Toll Bros., and they never mentioned to us, even when we were expanding the driveway, that there was an impervious coverage. If we would have known this beforehand, then we would have never come to you for permission to expand. Most of the community we have in Saucon Valley Meadows, has no idea when they bought the property that his was an issue. Otherwise, we would not have built these huge homes. When you buy a house, you want a deck. If that was the case, I would not have bought my property at Saucon Meadows. If I bought a big house and have a 10' x 10' deck, it doesn't make sense, but as far as the impervious coverage, he heard Mrs. deLeon say that most of them are within the impervious coverage and there have not been that many violations to go beyond the impervious coverage. Some homeowners that may have expanded their home on the lot beyond what should have been allowed, for example, my home on a .5 acre property, and I did an extension to the house. I think the township should have told us when you are buying the home, "you are buying this home, you don't have that much more space to add to that property". Mr. Kern said I've had a few houses in my time and when I buy a house, the Township never tells me anything about anything, and I don't think they should. I think when you drive into Lower Saucon from any road outside of Lower Saucon, the first thing you see is Lower Saucon, a zoned community. That's good and bad. The good is you live in a community that is beautiful and the bad is it's a pain in the neck because you have to get a permit for everything. When you see that sign, it should register - whenever I do something on my house, I need to go to Town Hall and check it out, so

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you can't say the township is responsible. I'm a resident too. Whenever I do something, I have to get a permit. Mr. Laliwala said absolutely, and that's why I'm here to get a permit. I have not built my deck yet. Mr. Kern said it's not the township's responsibility to inform the residents you need to get a permit. It's a zoned community. Mr. Laliwala said I'm not saying it's the township's responsibility. I'm just saying when Toll Bros. was marketing their properties, saying you can put lavish homes over here, and what the Township has allowed in a .50 acre of a box, we are assuming the township has given them the permit to build this house and to do an extension to the house or add to the house. If I'm building a house, and I'm not a builder, I'm from NJ, I don't know that many laws about PA, so I'm saying I understand where the township is coming from, but on the other side, the township has given too much leeway to the builder to let them do what they want to do and then it's up to the homebuilder to be left hanging. Mr. Maxfield said this is a problem we inherited. It's from previous Council's and now we're stuck dealing with it. Mrs. deLeon said she was part of the previous Council and it was in litigation.

Attorney Treadwell said in your packet is a memo from Chris Garges to Jack talking about Toll Bros., and according to Chris, our Zoning Officer, Toll Bros. does notify the owners of the status of the impervious coverage and that most home owners have copies of plot plans with their signature on it acknowledging what the information is regarding the impervious coverage. So to present to the Township that it's the townships responsibility to get in between a home builder and a home buyer and somehow involve itself in that contractual relationship, just does not make any sense, and according to Chris, Toll Bros. has provided that information. On an overall basis, he has seen property owners that have signed something at the time of settlement and it has on there the amount of impervious coverage they have left. Mrs. deLeon said that's when you are sitting at your attorney's office signing your name one hundred times.

Mr. Laliwala said he can bring each and every homeowner over here to let you know that they were not informed when they bought the property that there was an impervious issue, each and every home owner. That's why they come here and they are surprised. We all talk in the neighborhood what Toll Bros. has done is not right. Mrs. deLeon said there really isn't an impervious issue because if you build a house that you are supposed to build, you're fine, but it's when you want to add all this stuff. I may not be able to add an addition on to my house and my house was built in 1982. I may need a variance. You can't cover everything. Mr. Laliwala said for a deck or for a patio. - every home in America has a deck and a patio, so I would think that when I buy my house, I have four stairs going down my back yard, and I can't use my backyard. Mr. Kern said you can actually put on a deck and patio on, it just can't be as big as some people propose.

Attorney Treadwell said that would be the question if the township somehow decided to regulate what size a house a builder could build and say you need to leave 100 square feet so the person can add on a deck. The next person would say, I want 150 square foot deck, so why didn't you leave that amount. You are never going to win. Mr. Maxfield said all of that trying to find blame is one thing, but the real issue for us and for you is what this impervious coverage violation is going to do to this subdivision in the future. My feeling is that we have allowed 25% in this subdivision and I would guess Brien would back me up on this, if every house builds out to 25%, we're going to have a storm water problem. Brien indicated that was corrected. Mr. Laliwala said I thought you said most of the homes or all of the homes are not beyond the impervious coverage. Mr. Kern said right. Mr. Laliwala said it's not an issue for the neighborhood right now so some of the homeowners have homes that may support the type of patio they want to build within the impervious coverage. Mr. Maxfield said so far that hasn't been the request we have gotten and the reason we held it to the 25% is we've asked these people to go back and redesign the decks and take it down percentages and its occurred most of the time. There are a couple of

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instances where it went to the ZHB and they granted it when it was over, so if we have a whole subdivision that ends up being 26%, we're still going to have major storm water problems. These are generous percentages. We control as much as we can control for the safety and health of the people in the community. I feel like I'm not doing my job if I don't take this stance. This is about people's health, wealth, safety, future, all of it.

Mr. Laliwala said I understand where the township is coming from. I'm just trying to get some additional size to my deck to sit with friends and family, in the sun. Mr. Maxfield said the way you are assuming your deck is you are going to utilize your deck and it's going to be basically your world, your backyard, and you are viewing this as something you need to make your enjoyment greater. We are required, by law, to look at this in a more universal fashion. We are looking at the entire thing and that puts a whole sense of responsibility on the decisions that we make. Mr. Kern said you could bring the entire neighborhood here and say we didn't know it. That doesn't matter because 25% is 25% and that's what it has to be for the protection of the neighborhood. If you didn't know it and anyone else didn't know it, is irrelevant. It's just the way it is. It was there, you just needed to know and ask and you didn't. Mr. Laliwala said I understand, buyers beware. Mr. Maxfield said did you read your deeds? Mr. Laliwala said when we got the deed – no, we were just trying to get moving into the house.

Mr. Isbell said many of us relocated. I had one week to find a home coming from Northern Virginia to Basking Ridge, NJ. I had to move, I had to find it, and go. Looking at Toll Bros., nice community, great schools, we had basically a few days to make a life changing decision, where to locate our family and what we needed to do. In the meantime, our families are separated and then this comes as a big surprise at the end of the day. I have a property in Hellertown and they don't have the same bylaws and everything is on top of each other. Mr. Kern said the difference is they have a storm water system to handle it, we don't. Mr. Isbell said we're in between a rock here. Mr. Laliwala said I don't believe all the homes have the impervious issue. Most homes have square feet left - a lot of the properties that have .48, .54, a few of them that have a smaller lot. My two neighbors on the side have no issue. There are not many property owners that have this issue. Mr. Kern said some of the lots are large enough and they can add on and not even go over. Mrs. deLeon said you shouldn't assume all of them in the subdivision. Mr. Isbell said the newer homes that have been built are smaller homes as Toll Bros. wants to get out of the area. Mr. Laliwala said there are about 10 to 15 homes that already have decks or patios. There are about 39 homes there. Mr. Maxfield said there may be homes there that built decks without a permit. Mr. Laliwala said no, we know all of the neighbors and that's not true.

Mr. Horiszny said Mr. Isbell's coverage before the patio was 24.6%, so they were right on the limit unless there was a driveway or something in here that doesn't say whether that's just the house or house and driveway or not, but you had no room to move as is, when you started. Mrs. deLeon said this house was already constructed. Mr. Isbell said we picked the house, got the stuff in it. As far as understanding the community, understanding the area to your point, Mr. Kern, even though noticing it is a zoned community, with the fact of or relocation coming in and out, looking for a good place for our children to go to school, looking for a decent home, and a good area, and realizing my commute into NJ and regulating all those things, it wasn't like I didn't know this area, and had I really known that, those big decisions, where do your kids go to school, where do you move, etc., would have potentially been different.

Mrs. Yerger said the one guy I'm really, really annoyed with is the gentleman who put this in. Your professional was very unprofessional. He had to know with you being so very close to the limit. If he works in this area at all, he had to know he was pushing you past. What it sounds like is you have all this coverage. He had to have some indication and has

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to know storm water is an issue in this area. He's the guy who created this problem for you and for the community and I do want to send this guy a letter saying if you ever work in Lower Saucon again, you really need to get your act together and make sure you comply. What you've done is put your client in a horrible position as well as the township. I like the idea of sending a letter to the ZHB and I think we should state our position and why; however, I'm not sure that I want the end result for this gentleman to rip up his deck. I'm not sure how we can state that without the long term consequences. Mr. Maxfield said I was going to suggest and ask Ron that we take no action on the first one and that the letter go along with it. Mr. Kern said the letter stating what? Mr. Maxfield said exactly what Sandy just said that this is our position, why, and explaining the dilemma here tonight.

Mrs. deLeon said telling them we are unhappy with the situation, but it really isn't his fault. It's more the guy that he hired. Mrs. Yerger said we should say we aren't happy and I don't know if we have to mention in the letter the blame, but just say, this is why we are not happy because of these reasons. A second letter needs to be sent to this paver person. Maybe that's not our position. Linc, if we are out of bounds here, let me know. Attorney Treadwell said he doesn't have a problem at all sending a letter to the contractor. Mrs. Yerger said let him know he was erroneous in a very large way. Mr. Kern said as far as the letter to the ZHB, would that be something Linc and Jack would draft and something Council could look at before it was sent and you could email it? Attorney Treadwell said yes, they could email it. Mr. Maxfield said in that letter, I would also say, after what Sandy says, that we intend to oppose all future applications for violation of impervious, not setbacks. Mrs. deLeon said I don't think we can do that because then we are kind of deciding in advance. Attorney Treadwell said I would agree. The effect on the ZHB would be we are not going to listen to that and we are going to wait until they come in one by one until we do that. Mrs. Yerger said we just need to express our concerns and that it is going to be a continuing concern. Mr. Maxfield said their answer to that is why didn't you oppose it then. Mrs. deLeon said maybe because of the limitations we have with this particular subdivision. Mr. Laliwala said if the impervious coverage has not been breached by any of the neighbors except Paul, then I don't know why it's a problem. Mrs. Yerger said we want to do this for the future. How are you going to feel if we ask you to come into compliance when just, through a set of circumstances, isn't going to have to. Mr. Laliwala said I have 287 left as far as impervious coverage. When I built the house, Toll Bros. has done this purposely, they gave us a driveway that you couldn't even drive on – it was pretty small for a house like that. We actually extended our driveway about two feet wider. Even at that point in time, Toll Bros. didn't say it was an issue and for the right reason, as not to stir anything in the neighborhood. If I had known that, it would have given me a lot more to build my deck on. It's going to be a deck/patio and I may use more environmentally friendly, maybe patio pavers where it absorbs water and takes it through. Mr. Maxfield said in our ordinance, a paver is not considered to be impervious. Mrs. deLeon said I tried to get that changed, but they didn't go along with me. Mr. Laliwala said now they are making new pavers that water can go through them. Mr. Maxfield said it's made of impervious concrete or something? Mr. Laliwala said it's in the market. Mrs. Yerger said I'd discuss it with Chris before. Mr. Laliwala said okay.

Mr. Laliwala said my other question is why is a deck impervious as you have spacing in between and the water does go into the earth. Mr. Kocher said your ordinance does have things that are imperviously defined but are not necessarily in layman's terms impervious and I guess that's because it's easy to convert some of those type of surfaces to impervious like stone surfaces is very easy to become impervious over time. I suppose a deck is in the same way depending on the way the spacing of the boards and whether or not you put indoor/outdoor carpet on it, so your ordinance goes to those contingencies. Mrs. deLeon said I can guarantee you when you have your parties on your deck and your neighbors

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come over, I know what the topic is going to be. Mr. Kern said you have to be the poster children and get the word out. Mr. Laliwala said I think the neighborhood understands that. He was told when he came here he was going to have an issue with the Council and the board. Everybody knows that. Mr. Laliwala said I don't think anyone in the neighborhood has gone beyond the impervious. Mr. Kern said there's a gentleman sitting in the audience tonight who sat with us for a year and a half, sometimes going until midnight for this very issue because one house tipped the scale and they were flooded. It happens and we're trying to keep it from happening. Mr. Laliwala said maybe I'll scale it back then. Mr. Maxfield said the one we are dealing with right now, Mr. Isbell, we could just say no action and send that letter. Mrs. deLeon said you need to withdraw your previous motion.

ROLL CALL:

Mr. Maxfield withdrew his previous motion. Mr. Horiszny withdrew his second.

Mrs. deLeon said I can go along with no action, but I want to make sure the tone of the letter is not offending the ZHB and over stepping our boundaries. Mrs. Yerger said I think between our Manager and our attorney, we can depend on them. They are going to email us the letter. Mrs. deLeon said I don't want to be in the position where it comes back to us and then we have to deal with the consequences of them denying it.

Council took no action. A letter will be drafted for review. Mr. Maxfield said if this entire thing is built out to 25%, we will have flooding problems in the neighborhood, so think about that as you talk to your neighbors. Mr. Isbell said looking at the remainder of the lots and the sizes, I can't imagine them doing that and going over. You aren't going to get to that level. Mrs. deLeon said I know the developer is still active there, so they are still responsible. With their Improvements Agreement, after they leave, does the township inherit any improvements? Toll Bros. has fixed storm water basins. Attorney Treadwell said the township won't approve releasing any of the security until we've looked at it and determined that it meets the specifications. There's also a maintenance period where if something gets lodged in the basin, they need to fix it. Mrs. deLeon said Toll Bros. leaves, and five years down the road we're having this tremendous storm water problem, all of the township taxpayers have to fix it. Is there any way we can go back and access just the owners of that subdivision, like a district? Attorney Treadwell said I've never seen nor heard of a storm water district. You can have sewer districts because there are different requirements to get sewer. Mrs. deLeon said that's what we are trying to avoid down the line. You don't want your taxes raised because another subdivision wasn't doing what they are supposed to do.

Jr. Council member Stephen Prager arrived at 8:25 PM.

Mr. Isbell said we did add more trees. They are big trees too. Mrs. Yerger said I hope you understand we're not trying to make you a victim.

MOTION BY: Mr. Maxfield moved to take no action, and have the Staff send a letter to the ZHB to state opposition to our thoughts about impervious coverage in this neighborhood and our concerns for the future violations of the impervious coverage.

SECOND BY: Mr. Horiszny

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

ROLL CALL: 5-0

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- MOTION BY:** Mrs. Yerger moved that we have Staff send a letter to Paverscapes stating that he needs to be sure if he ever works in Lower Saucon Township again to check with our zoning ordinances.
- SECOND BY:** Mr. Maxfield
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 5-0

4. KANAK KEN LALIWALA – 1850 VIOLA LANE – VARIANCE REQUEST OF IMPERVIOUS COVERAGE TO CONSTRUCT DECK/PATIO

Mr. Kern said the applicant is requesting a variance of impervious coverage to construct a deck and patio.

Mr. Laliwala was present. Mr. Maxfield said we can cut this short if you agree to what you stated earlier that you would withdraw your current application to the ZHB and attempt to scale back your plans for your patio or deck. Mr. Laliwala said I have 287 left, so as a recommendation from the Council, what would that be then? Mr. Horiszny said 13' less than you wanted. Mr. Kocher said he also has the option of eliminating other existing impervious coverage. You said you widened the driveway. Do you have a sidewalk out front? There's other ways he could decrease the overall impervious. Those are other options without having to scale everything back on the patio. You have a walkway between the driveway and the patio, you may not need that. Mr. Laliwala said the walkway I want to add. Mr. Kocher said do you have a sidewalk in the front of the house? That's an option. There's no shed here, but we had other people take other structures down. Mr. Maxfield said you can use some pervious concrete and replace some existing concrete. Mrs. Yerger said it's not in our ordinance, so you have to be careful how to advise on this.

Ms. Stern Goldstein said for purpose of calculations, that might count as not being impervious, but for the zoning ordinance definition of impervious surface, it would still be impervious and he would still be here with the same variances as shown. He has choices; he has 287 square feet to play with. He has lots of choices, but they are his to make unless he goes over, then the township sends him to the ZHB and they make the choices. Right now he has a lot of choices. 287 square feet is nothing to sneeze at. 28' x 10' that's not all that small to start with and as Brien said, he can make choices on to what he's proposing on the lot and he's made choices to expand his driveway. He could make a choice to remove part of that if he wants to have a bigger deck. They are all choices he has to make and what impervious makes the most sense to him. Then he can plan accordingly. Mr. Maxfield said as you are doing that and you encounter another variance that you need like a setback, the use of certain materials would make it more favorable.

Mr. Laliwala said as far as the driveway and the sidewalks which are already done, I don't think I can tear those down. As far as the deck is concerned, I can scale it down to smaller than what it is after hearing everyone on the Council speak, to maybe 350 to 400, so I'm only going over by 113. Mr. Horiszny said I wouldn't go there. Mr. Laliwala said it's not a huge space. A smaller deck doesn't fit the house. If I can scale down to like 400, is that okay? Mr. Maxfield said to be blunt with you; we're not really into compromising on those figures. 25% is 25%. That is very generous when it comes to an overall calculation for the neighborhood and your attempt would have to be to meet that 25%. Mr. Laliwala said I'm trying and if I had known before, I would not have built out my driveway. Mr. Kern said that's irrelevant. Mr. Laliwala said it's all hindsight, but I'm still trying to enclose an area that's not that big after the impervious coverage is met. Mr. Kern said I think you clearly understand what would happen if you go over at this point, so as our Planner said, you have plenty of options to expand areas you may want to enjoy more. It's up to you decide. You make the decision and then whatever decision you make, there will

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be consequences or not. Mrs. deLeon said Chris Garges, our Zoning Officer can help you with some options. Mr. Laliwala said I will bring back another drawing and come back and resubmit it. Mrs. deLeon said we need to grant a continuance from the ZHB. Mr. Maxfield said when someone has withdrew from the ZHB is to oppose unless we see a paper seeing you have withdrawn, then it will go away.

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

B. PIERPONT SLATER – ROUTE 378 – REQUEST FOR SECURITY REDUCTION

Mr. Kern said the developer has requested a reduction of their security for improvements completed to date. Hanover Engineering has conducted an inspection of the work and is recommending a reduction in the amount of \$44,340.67. Mr. Kocher said there are no outstanding issues and the escrow is current.

- MOTION BY:** Mr. Horiszny moved for approval of Pierpont Slater – Route 378 – Request for Security Reduction, per staff recommendation.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

C. HIDDEN MEADOWS – REQUEST FOR SECURITY

Mr. Kern said the developer has requested a reduction of their security for improvements completed to date. Hanover Engineering has conducted an inspection of the work and is recommending a reduction in the amount of \$51,700.80. Mr. Kocher said there are no issues and the escrow is current.

- MOTION BY:** Mr. Yerger moved for approval for Hidden Meadows request for security.
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

V. TOWNSHIP BUSINESS ITEMS

A. AUTHORIZE ADVERTISEMENT FOR PERVIOUS PAVING MATERIALS AND E3M EMULSIFIED ASPHALT

Mr. Kern said Council should authorize the advertisement for bids for pervious paving materials which is needed to complete the trail at Polk Valley Park and for the trails planned for Kingston Park. Council should also direct the advertisement of bids for the E3M Emulsified Asphalt for the summer paving work to be completed by the Public Works Department.

Mr. Cahalan said we do have some of the trails to complete at Polk Valley Park and we are assuming that Council, when you review the Kingston Park Plan, will also agree that you want the same type of pervious concrete there, so we are planning ahead so we can put together a bid package. Mrs. deLeon said these were in the budget? Mr. Cahalan said they would be charged to each of the park budgets. Mrs. deLeon said is there a line item for Kingston Park? Mr. Cahalan said we put funding in for park development.

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MOTION BY: Mr. Horiszny moved to authorize advertisement for pervious paving material bid and E3M emulsified asphalt bid.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

B. ORDINANCE NO. 2009-03 – CODIFICATION AMENDMENTS – AUTHORIZE ADVERISEMENT FOR PUBLIC HEARING

Mr. Kern said Ordinance No. 2009-03 has been prepared to amend and revise the Code in various sections which General Code flagged as being inconsistent or revised by other amendments during the codification update that was recently done.

Mr. Cahalan said General Code did the codification and was very thorough and did pick up some inconsistencies and this ordinance will correct any of those that were identified.

MOTION BY: Mr. Maxfield moved for approval of advertisement of Ordinance 2009-03.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

C. ADOPTION OF POLICY ALLOWING PUBLIC WORKS EMPLOYEES TO RESPOND TO FIRE CALLS

Mr. Kern said in 2008 following meetings of the Fire Services group, the Manager directed the Director of Public Works to release Public Works employees who were trained firefighters to respond to fire calls with their fire company subject to certain conditions. The Council would like to formally adopt this directive as a Township policy.

Mr. Cahalan said this was something that came up in our meetings that we've been having with our Fire Services people in the township. This actually was a step taken to address the manning issue during the 6AM to 6 PM time period. We have directed Public Works people to be released as this memo indicates subject to certain conditions and it has been effect for the past year. It came up again at another meeting, and the Council members at the meeting said they would like an opportunity to vote on the adoption of the policy. Mrs. Yerger said I think it's a great idea and you did a great job with it.

MOTION BY: Mrs. Yerger moved for adoption of policy allowing Public Works employees to respond to fire calls.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

D. APPROVAL OF ADOPT-A-ROAD PROGRAM

Mr. Kern said the draft Adopt-A-Road Policy for Township owned roads was previously shared with Council for their review and comments. The program is modeled on PennDOT's Adopt-A-Highway Program. Once adopted, this program would coordinate and govern requests from Township groups or individuals who are interested in cleaning litter from township roads. The draft policy has been finalized and is ready for Council approval.

Mr. Cahalan said we did some improvements on this and Leslie has worked at it. The Solicitor has reviewed it. Roger has added the list of roads. We think it's ready to be adopted and it is modeled after PennDOT's program and the objective would be to get the word out to various groups and

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organizations once this is adopted, and hopefully, they will take up a road and clean the litter from it.

MOTION BY: Mrs. Yerger moved for approval of Adopt-A-Road program.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

Mrs. Yerger said I'd like to commend Jack for moving this forward as quickly as he did, and the staff in general. It's really a neat thing and I'm pleased for moving as fast as you did on it. Attorney Treadwell said before you move on, Mr. Kern, since Mrs. deLeon is back, Council voted on items V.B., V.C., V.D., did you want to register a vote. Mrs. deLeon said she will vote "yes" on the three of them.

E. UPDATE ARBORIST RFP

Mr. Kern said the Township Planner will update Council on the site meeting with the arborist and the homeowner to discuss and revise the arborist proposal for services for the trees that will be impacted by the Polk Valley Road Connector Trail.

Ms. Stern Goldstein said there was a site meeting held and there's a memo in your packet that Kevin prepared after that meeting. Mrs. Herman, Joshua from Joshua Tree, Kevin, Tom Maxfield and Valerie Spooner was there. The horse chestnut, which is the tree on the right, is going to be protected and there will be some extraordinary measures to preserve that tree. The Norway Spruce on the left will be taken down. In the meeting, there were also some tradeoffs. Some things were taken out of the scope of services for the arborist such as doing the tree protection, fencing, and there's a list in the memo. Joshua is going to come back with the revised proposal. We do not yet have that proposal, but we expect to have it in time to review it prior to the May 20th Council meeting. Joshua seems like a pretty reputable person and we did check out references. With the conclusion from the site meeting and the enthusiasm for saving the one tree, it seems that it should all work out fine.

Mr. Maxfield said do we have a date for the section of Herman barn that is coming down? Attorney Treadwell said we don't have a settlement date yet as to when we're actually purchasing it.

F. APPROVAL OF DATE FOR VOLUNTEER PICNIC

Mr. Kern said Staff is recommending Thursday, May 28th as the date to hold the volunteer appreciation picnic. Council should approve the date and the expenditure of funds for food, and direct staff to send out invitations to the various boards and committees.

Mrs. deLeon said when we got the emails asking for June, July and August, I know none of us could all get together. Mr. Cahalan said right. Mrs. deLeon said somehow the date of May 28th got thrown out and I thought I responded to everyone that it conflicted with a Conservancy event that evening. I really think that as one of five Council people, this is a very worthy thing and I thought that we were going to try to get all five Council people on the same day and I can't imagine there would not be another date that the five of us can't be there. Is there another date? The Conservancy event starts at 6:00 PM. Mr. Horiszny said if you could get someone there at the Conservancy to prepare it and be here for the first hour, which would work. Mrs. deLeon said you've pick a date of another group that is part of this township. You appoint me as liaison. There isn't even a time on here. This is supposed to be for volunteers. There are dual volunteers in the organizations and I think you appoint a liaison to establish a partnership with a township group, this is not setting a good example to our volunteers. There are volunteers on the different boards, but you are keeping these people from possibly even attending this event. It's not showing support.

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It's not the partnership. We sat through our COG meeting and talked about how the township is supposed to be supportive of our township groups, and then the township schedules a volunteer picnic on the same night as an Artist Reception at the Homestead. I'd like to make a motion to change the night. Mr. Cahalan said the purpose of this was to get some direction from Council. We just threw this out. That was a suggestion of May 28th. The list of potential invitees was again, something we threw out with what we were hearing to limit it to just the people who were appointed by Council. That's just an idea. Mrs. deLeon said I think we should all look in the next two months and find a date that we can all make it. You are picking a night where I'm a liaison. Mr. Kern said this was just an arbitrary date, so we know now you can't make it, so let's decide on a date. Mr. Horiszny said we need to add the Authority Board. He wondered about the Historic Committee. I also wondered if we could invite people that were just retired from last year and there would be at least two from the Authority Board. We started planning this last year and if we could include the recent retirees, it would not take our number up that much. Mary Curtin and Robert Russo should be on the list. The Library Committee should be on also. Mr. Cahalan said we will get a date and then send something out to the invitees. Mrs. deLeon said the only thing going on, on a Monday night is Parks and Rec and ZHB.

Council decided on Monday, June 8, 2009 from 6:00 PM to 8:00 PM. Mr. Cahalan said we will send something around and will add the Lower Saucon Authority board, the Historic Committee and the Library Committee and the recent retirees and will shoot for 6:00 PM. Mrs. Yerger said email them and invite them for 6 to 8 PM. Mr. Cahalan said we did want some approval for the expenditure. It wasn't earmarked in the budget.

MOTION BY: Mr. Horiszny moved that we spend up to \$500 for this event.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

G. APPROVAL OF POLICY FOR REMOVAL FROM HEALTH INSURANCE UPON TERMINATION

Mr. Kern said we have been contacted by our health insurance administrator who has requested we advise them how we would like to handle the termination of members from our health insurance plan when an event, such as termination, divorce, student eligibility status, etc., occurs. Council should set a policy for these terminations and direct staff to notify the insurance administrator.

Mr. Cahalan said we've laid out two attached options and we are looking for Council to set a policy which is your call. We would put it in place and notify the insurance administrator and it would make it simpler on Leslie who is the Human Resources person to have a set policy each time something like this happens. Mrs. deLeon said what do we currently do? Are they kept on? Mr. Cahalan said it was never set. Mr. Kern said what does the industry do? Ms. Huhn said it's up to us. Mr. Horiszny said go with the date of the occurrence. Mrs. deLeon said it will save the township the most money.

MOTION BY: Mr. deLeon moved for approval of policy for removal from health insurance upon termination as stated above.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

H. AWARD OF GRANT FOR TECHNICAL ASSISTANCE STUDY ON YARD WASTE COLLECTION

Mr. Kern said the Township has been notified of an award of up to \$7,500 from the Solid Waste Authority of North America (SWANA) to fund a technical assistance study to be conducted by Gannett Fleming, Inc. of Harrisburg, PA that will look at the various alternatives for the collection of yard waste in the Township and will make recommendations to the Council that would bring the Township into compliance with the PA DEP Act 101 regulations on yard and leaf waste collection.

Mr. Cahalan said we are out of compliance with Act 101 and DEP has been reminding us of that. They have also been threatening to withhold recycling performance grants that we receive. We also are interested in receiving funding for the compost center that we jointly operate with Hellertown Borough. DEP said that unless we start coming into compliance with the collection of yard waste and leaf waste, there won't be any money available to us for the equipment we need up there. We have been looking into the alternatives on how we can best accomplish this. A couple of months ago, we realized we were in over our heads and we needed some professional help, so we sought the assistance of this group, SWANA, through DEP and we were fortunate to be awarded this grant. Gannett Fleming, who has done many of these studies, has already put together a scope of services and will start collecting data and they will come up with a very good report with recommendations. They will come and meet with Council and present those recommendations to Council and then it's up to you to decide how you want to proceed with the recommendations.

Mrs. deLeon said who chose Gannett Fleming? Mr. Cahalan said there were four or five choices in the application. DEP made the choice. Mr. Cahalan put down SWANA as one of our choices. He read some of their studies and they looked very complete and they did very good in other rural municipalities like ours. This is just to bring you up to date. There's no match required, so it is money being put out by this organization. We will get a very professional report for that and will bring it back to Council. Mr. Horiszny said excellent work. Mrs. Yerger said thank you, Jack.

VI. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF APRIL 15, 2009 MINUTES

Mr. Kern said the minutes of the April 15, 2009 Council meeting have been prepared and are ready for Council's review and approval.

Mr. Horiszny said page 4, line 32 should read: Mr. Maxfield moved for denial for the request of entering into the maintenance agreement per the staff recommendation. Page 6, line 13, it says Mr. Horiszny said "so moved". Attorney Treadwell said he has no problem with it. What you said is what you said. Mrs. deLeon said she wasn't at the meeting, but something should be more clarified, it says

Council went into Executive Session. The time was 8:15 P.M.

Council reconvened at 8:42 PM. Attorney Treadwell said they discussed litigation and land acquisition.

The sunshine law says you can't go into Executive Session unless you announce the purpose. Attorney Treadwell said I think you can announce the purpose before or after. Mr. Kern said if you

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do review the tape, I did say what we were going in to discuss these items. Mrs. deLeon said the minutes must reflect that Council went into executive session to discuss potential land acquisition.

MOTION BY: Mr. Yerger moved for approval of the April 15, 2009 minutes, with corrections.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 3-1 (Mr. Horiszny – No; Mrs. deLeon – Abstained as she was absent from the meeting.)

B. MARCH 2009 FINANCIAL REPORTS

Mr. Kern said the March 2009 financial reports have been prepared and are ready for Council's review and approval.

Mr. Kern said he didn't see the \$50,000 for the Leithsville Fire Dept. Mr. Cahalan said it had been done previously. They were the quickest ones getting in their annual reports. They get their money as soon as they send their results into Cathy. Mr. Horiszny said what is Berkheimer Outsourcing? Mr. Cahalan said they collect our taxes. They have a different division of Berkheimer and it's the EIT portion of the taxes. Mrs. deLeon said what are the little r's and o's. Mr. Cahalan said reconciled and outstanding.

MOTION BY: Mr. Horiszny moved for approval of the March 2009 financial reports.

SECOND BY: Mrs. Yerger

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

ROLL CALL: 5-0

VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

- Mr. Hero said he wanted to thank Officer Koszi for a job well done. He asked if there is an ordinance for brush burning piles, size wise? Mr. Cahalan said he doesn't believe there is. Mr. Maxfield said from DEP you aren't allowed to burn brush at all. Mr. Hero said there's one at Silver Creek Country Club, their maintenance barn, about ¾ of an acre in size. It's been there for several years now. Are they going to dispose of it or chip it up? Mr. Cahalan said we have had other complaints about people piling brush on their properties. He will check into it and get back to Council. Mr. Hero said it keeps getting bigger and bigger. Mr. Cahalan said if it's something that can be taken to the compost center, we have organizations like that, and if they want to bring the brush up to the compost center, they can do that. He will look into it and if it's something they can take up to the compost center, he'll reach out to them. Mr. Hero said another safety problem, they run all their equipment from their maintenance garage on Durham Street up to their maintenance barn on Wassergass Road, and the speed limit is 40 and the borough is 25. These mowers don't go that fast nor do the golf carts. They own property on both sides of the road and a bridge under Durham, there's no reason to go on the public road with their equipment. Mr. Cahalan said I will pass that on to Chief Lesser.

VI. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER

- Mr. Cahalan said I received a notice from Bob Davis, from the EAC that he was going to have to resign from the EAC due to family and work commitments. He has not been able to make all of the meetings. He has agreed to provide assistance to the EAC and his chemical background is helpful and he has agreed to look over the Pest Management Policy. I'd like to accept the resignation and get direction to send a letter of thanks to Bob Davis.

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MOTION BY: Mrs. deLeon moved to send a letter of regret to Mr. Bob Davis.
SECOND BY: Mrs. Yerger
ROLL CALL: 5-0

- Mr. Cahalan said fortunately we had someone who had contacted me a couple of weeks ago to join the EAC, a Mr. Colin Guerra, who lives on Old Philadelphia Pike. He has a degree from Penn State in landscape contracting from their horticulture school and works for a landscaping contracting firm in Newtown, PA, so he should be very helpful to the township and the EAC. He would fill the non-voting slot that was filled by Bob Davis and that would run until December 31, 2009. I'd like approval to appoint Colin Guerra to the EAC with a term that expires December 31, 2009.

MOTION BY: Mr. Maxfield said so moved for approval as stated above.
SECOND BY: Mrs. Yerger
ROLL CALL: 5-0

- Mrs. Yerger said they are pleased to have Colin on board. We look forward to his participation on the EAC.
- Mr. Cahalan said the issue of the Saddle Ridge Street signs – we had discussion with the residents and the President from the Homeowners Association (HOA) several months ago. The issue was that the street signs that have been there are faded and don't meet the PennDOT sign requirements and it was also pointed out that the posts are non-breakaway posts. We had several discussions with the HOA and some letters back and forth. I pointed out some of the deficiencies and asked them to correct that. They did get back to me in March and said they did fix the signs. It looks like the letters have been improved, but we are unable to tell if they still meet the PennDOT standards for reflectivity. The sign that's out at the intersection of Sir Walters Way and Flint Hill Road is 4" and it needs to be 6" because of the higher speed limit. This is one of the ones they fixed, but it was not the right size and we pointed that out to them. The bigger problem is the post that the signs are on, still continue to be non-breakaway posts and it was pointed out, it's a safety hazard that needs to be corrected immediately. I sent a letter to Mrs. Langendonk dated March 30, 2009. I asked her to replace them within 30 days. I asked Roger to go out there on May 1st and he said that has not been done. The signs are still lacking full PennDOT compliance and the posts are still a safety hazard. I told her if they do not agree to put up PennDOT break away posts, the Township would put up our own signs in the right-of-way. Mr. Maxfield said before we do anything, can we contact her one more time? Just to make sure they are not in the process of calling around to find out how they can do that? If they don't respond this time, then we can go ahead. Mr. Cahalan said I will get in touch with them and let you know at the next meeting. Mr. Kern said stress to her that you informed Council and that Council is prepared to vote to replace the signs with Township signs at the next meeting if you don't hear from them.
- Mr. Cahalan said the meeting with PennDOT, Bob Mack from Brien's office got a call from PennDOT from a Dennis Toomey and they came up with a date. The only problem it was this Friday from anywhere between 9 AM and 2 PM, so I don't think that is going to work with everybody. We asked them to come up with an alternate and they came up with Friday, May 22nd, and it's anytime up until 2:30 PM. Mrs. deLeon said I wanted to go to that meeting, and it's the Friday of Memorial Day weekend, so I'd like another date. We waited this long. Mr. Cahalan said we'll go back to them and try another date.
- Mr. Cahalan said I gave you the notice received from the City of Bethlehem. The Ben Franklin Technology Partners hearing, they are requesting variances from the City for that building addition that is scheduled for their ZHB on Wednesday, May 14th at 7:00 PM in the City. I received information from Bill Scheirer who has worked with us before on the FAA Tower and he indicates that there was some concern from the Bethlehem side with, their EAC. With the building that is going to go up there and with the parking deck that is

going to be constructed, they are concerned about the impacts, the tree cutting and so on that will occur. It's all on the City of Bethlehem property. What I suggest is that we send the Zoning Officer from the township to sit in on this ZHB session to monitor that situation. Mrs. deLeon said that would be nice if he went, but if he doesn't testify, nothing will be part of the record, so if there's something that the Township would like to do, we're not a party to anything and so it's kind of senseless to send the Zoning Officer. Mr. Maxfield said I don't see a problem with him going. He fills us in on stuff that doesn't get covered by the newspapers. Mrs. deLeon said right, but what if we object to something, we can't do it officially. Mr. Cahalan said I don't have anything to recommend that you object to at this point. I don't have enough information. Mrs. deLeon said the point is that it's public record. The applicant, just like here, the neighbors are notified and they can come in to see the record here if they are educated to see what the process is. I would think that our Zoning Officer is educated in the process as he attends all the ZHB meetings. He's going to go and report back to us. Are we going to send the ZHB a letter after the hearing closes? We don't have any standing. Mr. Maxfield said it could be continued. It doesn't necessarily have to be settled that night. They have 45 days. Mr. Kern said we could authorize Chris to testify if something presents itself at the meeting and he feels compelled to do so. Mrs. deLeon said he could go to the City and look at the file. Mr. Cahalan said we have a courtesy copy of the plan. What I anticipate I am hearing is that there will be some opposition from the City of Bethlehem side from their EAC and from other residents concerning these impacts, but I just got this call late this afternoon, so I don't have any documentation of any issues and none of it is in Lower Saucon Township. It is all in the City of Bethlehem's side of the property. Mrs. deLeon said did we get notice that this hearing is going to happen because we are in so many feet of the application? Mr. Cahalan said we just got sent a copy that was in your file that came from the City of Bethlehem and it indicated there were two variance requests on the agenda for May 13th. Mrs. deLeon said did we get the notice as an adjacent property owner as far as their MPC requirement to notify the property owner? Mr. Maxfield said I don't think we are the property owners? Mrs. deLeon said right, we wouldn't have gotten notified that way. It would have just been a courtesy copy. Mr. Kern said would EAC be willing to send a representative from Lower Saucon to the meeting as well to potentially back up the Bethlehem EAC? Mr. Maxfield said we don't really know what's going on yet. Mr. Kern said just to protect the interest of Lower Saucon in case something shows up at the meeting that is worthy of it being addressed. Mrs. deLeon said would the EAC testify if it's not a voted decision, it's just a member. Mr. Kern said they can do that. Mrs. deLeon said they can, but I don't think it has much weight. Mr. Maxfield said the simplest thing is to just send Chris. He has an engineering background. He can tell us what is going on. He can report back to us. He's an official Township representative and we don't know what's going on, so he'll just let us know. If an EAC member would like to accompany him, that would be interesting. I could see that happening. He's familiar with the Zoning issues which an EAC member might not be. Mr. Kern said Chris and an EAC member and authorization to have Chris testify if something surfaces in the meeting that is justifiable. Mr. Cahalan said I can direct him to go and we can request if anyone from the EAC wants to attend. Mrs. Yerger said we can circulate that. Mr. Cahalan said it's May 13, 2009 at 7:00 PM. Mr. Kern said that would be direction. Mr. Maxfield said we are not sure what their parameters are for being able to testify. A lot of times our ZHB will say contiguous property owner. Mrs. deLeon said we might not even have standing. Mr. Maxfield said at least he will tell us what's going on.

- Mr. Cahalan said with the landscaping improvements and all the other responsibilities up at Polk Valley Park, Council had approved several items in the budget for the park. One was a maintenance shed for Public Works (PW) to store their equipment and also a gator utility vehicle so they could do maintenance on the park and also the landscaping. We still have a freeze on the purchase of non-essential items, but these two items are necessary for PW to keep up with their additional responsibilities for the landscaping and maintenance of the

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park. I would like approval to proceed with the purchase. The maintenance shed is a cost up to \$6,630 and the gator utility vehicle is a cost up to \$15,000 and that money is in the budget for 2009. Mr. Maxfield said do we know where it is where they want to put the maintenance shed? Mr. Cahalan said it's in the same general vicinity as the other sheds. Judy took a look at that some time back.

MOTION BY: Mr. Horiszny moved for approval as stated above.
SECOND BY: Mr. Maxfield
ROLL CALL: 5-0

- Mr. Cahalan said the City of Bethlehem Planning Commission is holding a public meeting on the South Bethlehem greenway plan on Thursday, May 14 at the Hard Bean Café at 201 East 3rd Street at 4:00 PM. It's a special Planning Commission meeting where the South Bethlehem greenway will be presented and discussed.

B. COUNCIL/JR. COUNCIL

Stephen Prager

- He said I'd like to inform the Council that all of my other obligations have ended.

Mr. Maxfield

- He wanted to say thanks again to the Road Crew. They participated with us and did a vast majority of the work on the electronics recycling. We had 18 pallets, best yet. The next one is Saturday, October 24. Mrs. deLeon said it's the same day as our Living History day. Is there any way they can change that? Mrs. Yerger said why would that interfere? They just drive through and drop off computers. Mrs. deLeon said it's all community related. Mr. Cahalan said we'll make a change on that.

Mrs. Yerger

- She said on May 9th, this Saturday, there is going to be a Rain Garden Workshop here at the township presented by the Saucon Creek Watershed Association and the Conservation District. It's a \$10.00 fee, but you do go home with a plant from Edge of the Woods. She doesn't recall the time, but the time is on the EAC website.
- She said on May 16th, the Lutz-Franklin Schoolhouse will be having their official celebration for their nomination to the National Historic Register and that's quite a great day. Mr. Horiszny said it's from 10 AM to 1 PM.
- She asked Leslie to send Colin an EAC packet with the EAC manual.

Mr. Horiszny

- He said he had another thank you for the Road Crew. They brought road blocking equipment out at midnight Monday to block off Black River Road when there was a tree down. If they didn't get there, I would have had to stay there, so I appreciate it.

Mr. Kern

- He said he informed Parks and Rec that when they suggested a green fence at the Steel City Park, I told them the Planner suggested a black fence and their response was great. As a result of that meeting, Parks and Rec board mentioned that they've observed a soft spot on the Polk Valley field closest to the road going up. There seems to not be a good drainage area in the far corner of that field. There's no reason for it. Mr. Cahalan said Roger is looking into that.

Mrs. deLeon

- She said when I went to the PSATs conference the other week, I saw Bob Pitcavage, the DEP liaison, and he made a point to come up to me to say the Township needed to contact

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him. Did anybody contact him? Mr. Cahalan said yes, what we did was we also have gotten various notices from DEP about the stimulus money that is coming into the state and they are asking for comments on an application process that is going to open up on June 15. Cathy will be getting in touch with Mr. Pitcavage. We anticipate that our application that we submitted for the Energy Harvest Fund for the solar panels will now have to be resubmitted because it wasn't found eligible. We will resubmit it to the DEP for these stimulus funds. We will also be looking into some things like the LED traffic lights and any energy saving things. We are working on putting that together and we're touching base with people at DEP.

- Could you request another day than Friday for the PennDOT meeting? Mr. Cahalan said sure.
- She said we are having a plant sale and community yard sale from 9 AM to 3 PM. Space is available if you have any items you would like to sell. I would like to ask the township if we could borrow some orange cones. If Roger could drop them off at the Homestead, or fluorescent green things for the street, that would be great. I'd like to see them over at the crosswalks. Mr. Cahalan said I thought we understood that they are not approved by PennDOT. Mrs. deLeon said then we could use some extra cones. It's very dangerous, nobody stops. Nobody sees the yellow blinking lights. We talked about synchronizing the lights for different events and there was a cost to that. If there's a way to do it, all at the same time, maybe it's all included in the one price. Mr. Cahalan said you'd have to give us a definite range of where it will go on and off. For the Farmer's Market, we do it between 9 AM and 1 PM on Sunday's between May and November. There is a cost for Traffic Pump Solutions of \$300 or \$400. Mrs. deLeon said they were on last Saturday. Mr. Cahalan said they have been malfunctioning and I don't know whether people are pushing it to cross and they stay on.

E. ENGINEER
None

F. SOLICITOR
None

G. PLANNER
None

VII. ADJOURNMENT

MOTION BY: Mr. Maxfield moved for adjournment. The time was 9:45 PM.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

Submitted by:

Jack Cahalan
Township Manager

Glenn Kern
President of Council