

I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, July 20, 2011 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, President, presiding.

ROLL CALL: Present – Glenn Kern, President; Tom Maxfield, Vice President; Sandra Yerger, Ron Horiszny and Priscilla deLeon, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Linc Treadwell, Township Solicitor; Dan Miller, Township Engineer; Judy Stern Goldstein, Township Planner.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

Mr. Kern said Council did meet in Executive Session prior to this meeting.

Attorney Treadwell said Council met in Executive Session to discuss the collective bargaining negotiations with both the uniform and non-uniformed employees, as well as potential litigation with Saucon Ventures.

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.A. the Zoning Hearing Board variance for Sharon & Timothy Smith has been taken off.

III. PRESENTATION/HEARINGS

A. MAKOS/LENNER – 2617 MARTINS LANE – CONDITIONAL USE HEARING & SITE PLAN APPROVAL

Mr. Kern said the applicant is seeking to extend an existing access drive toward the rear of the lot and past the edge of the 100' riparian corridor. No piping and/or structures are proposed other than those that currently exist.

STAFF RECOMMENDATION FOR MAKOS DRIVEWAY IN A RIPARIAN BUFFER 2617 MARTIN LANE, TAX MAP PARCEL Q8-11-14B CONDITIONAL USE (CU01-11) AND SITE PLAN (SP01-11) APPROVAL

The Lower Saucon Township Staff recommends that the Township Council approve the "Makos Site Plan," as prepared by Mease Engineering, P.C., consisting of one (1) sheet, dated April 13, 2011, last revised June 15, 2011.

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Subject, however, to the following conditions:

1. The Project is subject to the approvals of all municipal and governmental agencies having jurisdiction over the project, including but not limited to review and approval by the Northampton County Conservation District and the U.S. Army Corps of Engineers, as applicable. A Note shall be added to the Plan identifying that Army Corps review will be required prior to construction of the driveway.
2. The limit of constructed improvements within the riparian buffer will be limited to the area shown on the Plan. The area of temporary construction disturbance shall be subject to review and may be limited by the Township during the future Grading Plan review(s).
3. All review comments contained in the letter dated May 26, 2011, from Hanover Engineering Associates, Inc. have been addressed.
4. The Applicant shall address, to the satisfaction of the Township, the review comments contained in the letter dated June 7, 2011, from Boucher & James, Inc.
5. The Applicant shall provide four (4) prints of the approved Plans with original signatures, notarizations, and seals. The Applicant shall also provide two (2) CDs of all Plans in an AutoCAD format (jpeg-ROM).
6. The Applicant shall pay any outstanding escrow balance due to the Township in the review of the Plans and the preparation of legal documents.
7. The Applicant shall satisfy all of Conditions 1 through 6 within one (1) year of the date of the conditional approval unless an extension is granted by the Township Council, or this approval shall be considered withdrawn, null and void.

Mr. Scott Mease, Mease Engineering; Bill Duh, Attorney for the project; and Tom Lenner were present.

MOTION BY: Mr. Maxfield moved to open the hearing.

SECOND BY: Mr. Horiszny

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

ROLL CALL: 5-0

Mr. Mease said the property they are here for tonight is the Makos Estate. The plan he prepared shows the property is located on Martins Lane. The site is approximately 6-1/2 acres in size. The property is a vacant piece of property with some woodlands located on the northerly part of the property, a field in the middle, and then some lawn and field areas with a small pond on the south side of the property next to the road and there's an existing garage and shed which currently exist on the property. The pond has a drain and water drains from it. There is a wetland on the center part of the property and that also has a drainage area that drains east to west. There's an old lane that is used to access a field on the property which is located in the center part of the property. They had a number of studies done on the property. Your natural resource requirements in the Township require us to locate woodlands, steep slopes, wetlands, flood plain soils and those items, and they have done that on this plan. The steep slopes are located in the northerly part of the property. The steepest slope has a certain type of hatch pattern. The other slopes, the 15%-25%, they are located on either side, the north and south of those steeper slopes. There's an area of 8%-15% slopes which are shown. DelVal Soil Consultants did a wetlands delineation of the property.

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They have a line on the property with a "W" on it. That shows the wetlands. There's a separate set of wetlands shown on the south side of the property which encompasses the pond. They also had the soils evaluated for the floodplain soil and they are shown with a line with an "F" in it. Floodplain soils are located adjacent to the wetlands. Your water courses have a riparian buffer that is measured 100' on either side and if we would take these two water courses and put the 100' between the two, they would overlap, so what we're showing is a riparian buffer line on the north side of this watercourse and then one on the south side of this watercourse. Basically, the riparian buffer area would encompass this whole section of the property that he's showing you. The estate would like to sell this property. There's like 35 heirs involved in the estate who want to sell it. In order to sell it, they've done the survey and the calculations in order to determine what is buildable on the property and what is not. They are here tonight for the conditional use and they would like to get a conditional use approval for allowing the driveway to access the buildable portion of the site which is north of the site, west of the wetlands, and they are showing the proposed driveway location with the gray shading. It's following the location of the existing lane to a certain extent and they are simply extending it until they cross over the far northerly border of the riparian buffer. The soils testing were done on the site and a primary and alternate sewage system was found. The soils were determined by the Soils Consultant to be suitable for an in ground storage system. The plan was brought before the Planning Commission and both of your consultants did reviews of the projects. You have the recommendations and comments and a memo from the Planning Commission with certain conditions and they can discuss them at some point.

Mr. Horiszny asked how many feet long is the planned driveway? Mr. Mease said this length of the property line was 210'. This length is 104'. From here to this point, it would be 314' and then you would add another 50'. He could get a scale, but roughly it's about 364'. He might add one important key point. There are two water courses pointed out and there are pipes that exist at both of those crossings that was utilized by the existing lane. This lane did show up on the subdivision plan that created this lot in 1982 and they are proposing to use the existing lane area including where the pipe crossings are located so they don't have to deal with any encroachment into the water course areas.

Mr. Kern asked if there were any comments from the Planning Commission or Council? Mr. Miller said there has been a staff recommendation prepared. All their comments have been addressed. Since the Planning Commission meeting, there have been two submissions and they have addressed all of our comments. They do have a concern that there's no indication of a limit of disturbance on the plan, but that is addressed the staff recommendation.

Ms. Stern Goldstein said they also had a review letter issued and the last set of plans that were submitted by the applicant was an informal set. They weren't a formal set yet. They were just seeing if they met the checks for tonight. They seemed to have addressed most of the conditions. One was the limit of disturbance which is still not shown. The line is missing on the legend and the plan and they believe they certainly have the ability to comply with that. The issues look like they are being addressed, but it has to be conditions of any approvals you would grant so they would be formally addressed.

Mr. Maxfield said from the Planning Commission point of view, it's a conditional use, so it's a permitted use. There were some specifics of the property that they talked about. They all agreed that the property will be onerous to develop for whoever buys it and develops it. For right now, with the existing lane, and it's just being extended to probably the only buildable area on the lot, so there's no problem with that. There are two undersized pipe crossings, but they decided there would be more disturbance by addressing that. Mr. Miller said that is one reason and the other reason is in the attempt to increase the size would raise the ground higher and make much more of an impediment. Mr. Maxfield said better left untouched.

Mrs. Yerger said does this particular property fall into the Cooks Creek watershed protection area and does that change anything? Mr. Miller said yes and no. Ms. Stern Goldstein said the reason it

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is a no is at this point, the only construction is the driveway and that actually is not technically proposed as construction right now. It's the conditional use to be able to put the driveway in and they need to pull permits to put the driveway in. When they pull permits for that, they will need to deal with any issues in the Cooks Creek watershed area. Mr. Maxfield said it's important right now to know that this is on paper. Mrs. Yerger said her question was more to the Engineer and the applicant that they were aware that it's in a special watershed protection zone because its headwaters of the Cooks Creek which is an exceptional value stream.

Mr. Horiszny said was the Planning Commission aware that the EAC was against it? Mr. Maxfield said yes they were aware of it. There are some interesting features on the property and they were aware of them and went through all of them. He asked if there were any conditions that they disagreed with or take issue with? Mr. Mease said no.

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

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

Attorney Treadwell said you have two options. We will bring back a conditional use decision to your next meeting for you to actually vote on, but if you want to approve the site plan subject to the conditions in the staff recommendation, you could tonight or do both at the next meeting. Council said they will do both at the next meeting at the same time.

B. ORDINANCE NO. 2011-03 – PUBLIC HEARING & CONSIDERATION OF ADOPTION – BALLOT REFERENDUM – EIT OPEN SPACE TAX

Mr. Kern said Ordinance No. 2011-03 has been prepared and advertised for a public hearing to place a ballot referendum question on the November election asking if the voters favor the continuance of the .25% Earned Income Tax (EIT) for Open Space purposes.

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

Mr. Kern said he's prepared a presentation to update the progress on the EIT. Many years ago he got on Council for open space reasons to try to preserve the character in the Township and that's actually the main reason he's in government now. He wanted to update everyone on what the progress has been in the last five years since the Township first voted to accept the one-quarter of one percent tax. There's been no houses being built, and we all know what the economy has been like. He was even thinking why should we vote to re-institute the EIT, what's the purpose? If you look at the bottom, it says "complacency is dangerous in both love and technology". He'd submit it's also dangerous in open space preservation. After he reviewed all the facts and figures he's known for twelve years, he came to the same conclusion that the EIT is not the problem, it's the solution. The open space fund is only one-quarter of one percent of our earned income. If he earns \$50,000.00 a year, his contribution is \$10.00 a month, which is \$125.00 a year toward preserving our Township. If the times are hard, like they are, with salaries cut in half, it's only \$5.00 a month for the contribution. If he's out of work, then he doesn't pay anything. If he's a senior citizen with no earned income, then he doesn't pay anything. The problem isn't the EIT, the problem when we look at our taxes is a little bit over the side of the Township and it involves the school taxes we pay. There's no commercial tax base to us for the school tax. The brunt of the school tax is borne by us. The school tax is now 51.74 mills. If you live in a house that's valued at \$250,000.00, your

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school tax is \$6,500.00 per year. When you reflect what your EIT payment is at \$50,000.00, you are only paying \$125.00 versus \$6,500.00. What he is going to show you shortly is that \$125.00 per year can actually offset future school tax increases. If you have a fictitious 60 acre land that's prime for development, and it's R-20 zoning, and you have a house value of \$250,000.00, you can fit conservatively 80 homes on that 60-acre tract, probably a lot more, but he's being conservative in the figures. In talking to Ed Inghrim, who is on the school board, Ed says the R-20 is where all the kids are coming from in the school district. It's not Society Hill and it's not the R-80 zoning, it's the R-20 zone. That jumps up the average child per home. It could be two children per home, but being conservative, we will say 1.5 children per home. Cost per home at 1.5 children to educate is \$23,400.00. We're up to \$15,600.00 per student at Saucon Valley. The school district is only getting \$6,500.00 a year to offset that. There's a net loss per household of \$16,900.00. If you multiply that by 80 homes, that's a \$1.53 million deficit that has to be made up and in the past, you've seen that being made up by increasing the millage and that's the only way the school district can do it. That's every year. It's not the time to get complacent. This is the best kept secret, and you already know where he's going with this, the EIT creates a treasure chest to mutually benefit all of us. It is the EIT tax that benefits us in that way. How is that possible? How can \$125.00 a year save \$1.35 million? If you take that fictitious 60 acre parcel somewhere in the Township and we purchase it instead of it being developed, and your purchase it for \$1 million, the breakeven on that \$1 million would occur in less than a year. From that point on, instead of losing \$1.35 million a year, because we united and purchased it with our \$125.00 here, our \$175.00 there, as a united group, we'd be pocketing that \$1.35 million from that point on. That's what the power of the EIT does, if we can join our forces together. That's the power of the Open Space Fund. Here's what we acquired so far since you approved it. In 2007, there was the Seifert-Ray property which was farmland preservation and it cost us nothing as it was acquired through the Northampton County Open Space Fund. In 2008, a tract on Maccaro Way out on Drifting Drive, 15 acres was acquired for headwater protection of the Saucon Creek. Later in 2008, probably the jewel of our preservation was the Dyer-Bracalante-Noble easement. It was 56 acres of pristine woodland and what you see in the middle was farmland, but it's been left as a beautiful meadow. The Saucon Creek is winding around that property and as a result, about a mile of the Saucon Creek is protected. In 2010, the Open Space Funds purchased the Christ-Lutheran Church baseball fields off of Easton Road. We made sure it would be forever for the Little League to use. In 2010, we purchased the Dravec property, which was 43 acres off of Alpine Drive. It's a beautiful wooded habitat area. You can see the vernal ponds and the wetlands and on the property there are existing trails. There's also a possible trail linkage to the Whitetail Bowman property. We also purchased the Mease Farm for \$145,000.00, which is 20 acres of a working farm off of Springtown Hill Road. On the farm, it also has some luscious looking forest. You can see the forests and it provides habitat protection and there's also a tributary to the Cooks Creek that flows through there. Since he's been on Council, he donated his meager \$2,500.00 a year salary to the Open Space Fund, but after ten years that has come to \$25,000.00. That's how much it means to him. That plus the EIT funds brought in have totaled close to \$4 million that have been brought in the five years. The total expenditure on the property acquisitions that you've just seen is about \$1.36 million. There's General Fund expenditures that went into engineering, planning and legal expenses for doing all of this which came to \$111,000.00, but that's offset by grant money, which was received. There was a DCNR grant of \$244,000.00 and the Northampton County Open Space Fund of \$93,000.00. That totals \$337,000.00. That's three times the cost of those expenses. We can tip our hats to EAC and to Sandy and Tom for making all that happen. The amount that is remaining in the treasure chest is \$2.5 million. That doesn't mean it's time to get complacent. The future involves five properties that are currently in the pipeline, and that's undetermined what that cost is going to be if they end up being acquired. He would like to suggest to Council and to our EAC to have a bigger focus of land that's in the headlights of development, particularly any large parcels that may be developed in the future. While we've been relaxing now, the economy is going to pick up and actually those tracts are going to go quickly. Since cash is king and cash is on hand, this would really be the time to focus on acquisitions for that. That's really going to be a major impact on our tax situation. This all depends on you and your vote in November. He hopes you can all see the light and come

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November cast the ballot to approve and vote again for another five years for the EIT Open Space Fund tax.

Mr. Kern asked if there were any comments? Mrs. Yerger said there is pamphlet "Return on the Environment". In these economic times, the Delaware Valley Regional Planning Commission, a large joint Planning Commission wanted to look at the question of what is the value of open space even beyond the tax situation. They hired an independent firm to go out and look at the value of open space and what happens. Even though some of these numbers reflect what the dollar value is in the southeastern part of PA, that approach is applicable to anywhere in the country. This is not the only study that is done. This happens to be the most recent study that was done. Penn State has done studies. There was a study done by the Department of Conservation and Natural Resources called "Opportunity Knocks" about eight years ago. These studies have been ongoing and what it basically says is the financial return on open space goes beyond the taxes. The property values stay high in communities that have protected open space. The proximity to recreational facilities increases the property values as well as our quality of life. It was done by a Planning Commission. This was not only done by someone who looks at open space issues, but they look at economic growth and drivers. What they were really surprised at was how certain aspects of open space are economic drivers as well. All that information is available in the booklet. This is just a tiny summary. There is a study that was done over a long period of time and it will give you access to that should you need to do some extensive reading as it's quite complex and very detailed.

Mr. Maxfield said you saw the information about the Mease Farm. The 20 acres that were preserved on that farm is just the 20 acres in Lower Saucon Township. The vast majority of that farm was Springfield Township and we have entered into partnership with Springfield to preserve it so while 20 acres may be a small farm, it's actually attached to a sizeable farm. We are looking in the future to become partners with Springfield again. Mrs. Yerger said it's actually a 68 acre farm. For those who don't recognize it as the Mease Farm, it's actually Saylor's in Hellertown. It's a three generation farm and very much an economic component of our community. Those are the kinds of property the EAC is evaluating and they do go through an extensive evaluation process through the EAC Open Space Sub-Committee before they are even brought to the Township Council for consideration. That's how they are selected. We try to get the most bang for our taxpayers' buck. Mr. Maxfield said our program has relied on people coming to the Township. If you have land or you know someone who has land who wants to conserve it, please ask them to talk to us. We are limited right now to who contacts us. We're not out there contacting people.

Mrs. deLeon said at the March meeting when we talked about this, she remembers asking for a map asking for all of the properties. Did anyone do that? Mrs. Yerger said they got copies, but they didn't bring it along. Mrs. deLeon said why didn't she get a copy as a Council member? Mr. Kern said he hasn't seen it either. Mr. Maxfield said it was distributed to the Open Space Sub-Committee as they actually requested it earlier. Mrs. deLeon said it would be nice if Council got a copy. The EAC couldn't do this if it wasn't for Council. She had asked for a chart. Some of the money amounts Mr. Kern showed on his power point was included in this. The General Fund paid for \$111,000.00, but this chart that we got in April stops at 2009 unless 2010 wasn't filled in. She asked if it could be redone. Then it's all here in one place.

Mr. Horiszny asked if there was a way we could put Mr. Kern's presentation on the Township or EAC website? Mr. Cahalan said sure. Mrs. deLeon said because it's a referendum, is it influencing an election? Attorney Treadwell said it's obviously been shown here and discussed tonight in public, so he wouldn't say it's influencing. It's more informational. Mrs. deLeon said kind of like Gracedale, and they had to be very careful on influencing that vote. Attorney Treadwell said he'll look at it a little closer. Mr. Maxfield said as individual Council members, we've been shy about saying that we support open space. Mrs. deLeon said she's not suggesting that Council members should say whatever, but taking a Township position on our website is a little bit different. Mrs. Yerger said Mr. Kern can work with Attorney Treadwell and perhaps amend anything that might not be appropriate.

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Mrs. deLeon said she mentioned this in March and it wasn't changed, the first WHEREAS, it says the Township of a second class optional plan. That's incorrect. Lower Saucon Township is a home rule optional plan. Attorney Treadwell said the technical term is optional plan. It is a second class Township and an optional plan government. Mrs. deLeon said she's never seen it written this way in all the years she's been sitting on Council. If that's what Attorney Treadwell says, that's fine. She can show you other ordinances and resolutions where you say it differently.

Mrs. Yerger said she wanted to point out that if you look at the referendum question, the monies are also permitted to acquire historic structures in the Township. It's recreational use, historic structures and open space.

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

MOTION BY: Mr. Horiszny moved to adopt Ordinance No. 2011-03.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

Attorney Treadwell said they will forward this to the County to place it on the November ballot.

C. ORDINANCE NO. 2011-06 – PUBLIC HEARING & CONSIDERATION OF ADOPTION – AMENDMENT TO VEHICLE CODE – FREDERICK STREET RESTRICTIONS

Mr. Kern said Ordinance No. 2011-06 has been prepared and advertised for a public hearing to amend the vehicle code restricting truck traffic on Frederick Street.

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

Attorney Treadwell said Council passed this ordinance previously to restrict traffic on Frederick Street and this ordinance just provides an exemption for school buses, emergency vehicles, and vehicles making a local delivery because it weren't specifically spelled out in the previous ordinance. School busses and vehicles making local deliveries cannot exit Frederick Street on to Route 378. That was a result of the safety issues involved with those types of turning movement. Mr. Horiszny said didn't it say you just couldn't turn right? Attorney Treadwell said the safety issue was not to exit on 378 at all. It says prohibiting exiting from Frederick Street in an easterly direction onto Route 378 due to the steep grade of the intersection. Frederick Street is going easterly and 378 goes north and south.

Mr. Kern asked if anyone in the audience had any comments? No comment.

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

MOTION BY: Mr. Maxfield moved for approval of Ordinance No. 2011-06.
SECOND BY: Mrs. deLeon
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

D. ORDINANCE NO. 2011-07 – PUBLIC HEARING & CONSIDERATION OF ADOPTION – REQUEST TO VACATE A PORTION OF A PAPER ALLEY LOCATED IN STEEL CITY

Mr. Kern said Ordinance No. 2011-07 has been prepared and advertised for a public hearing to vacate a portion of an unnamed alley in Steel City.

MOTION BY: Mr. Maxfield moved to open the hearing.

SECOND BY: Mrs. Yerger

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

ROLL CALL: 5-0

Attorney Treadwell said we've received a request from Mr. Louder, who is a property owner in Steel City to vacate a portion of a paper alley that is located and borders his property in Steel City. Mr. Miller had a plan and said paralleling Johnston Avenue, we'll just call it "below Fritz Avenue", there's a 10' strip of property along two parcels of land owned by Mr. Louder. It basically goes 200' away from Fritz Avenue towards Adams Avenue, makes a 90 degree turn into the alley 10', returns to Fritz Avenue to 200', and then closes the loop. Attorney Treadwell said the request the Township received was to just vacate that portion that borders the two Louder parcels. Before you take any action, you are required to have a public hearing and that's why we are here this evening.

Mr. Kern asked if anyone in the audience had any comments? Mr. Joe Zielinski said he's also one of the residents of that block. He and his wife have lived there for 18 years. They do use this paper alley several times a week since they moved in. To allow part of this to be vacated, their house is in the center and they have no access to the streets. This could leave them without access to their sheds and firewood, even to get there from the front of their house, they have a drain field. Their property is only 50' wide. He would have no access to the back. He'd like things to stay the way they are. Mr. Kern said what are the legal complications? Attorney Treadwell said any time the Township vacates an alley or a street, basically what you are saying is the Township has no further rights to it. You may not even as a Township have the right to do anything with these alleys at this date anyway because it has been so long. The only thing you are saying if you adopt this ordinance is that you officially recognize that you have no right to that alley. That does not mean that people who purchase lots in Steel City do not have a right to use that alley for access purposes. They bought subject to the plan and that plan shows it as access. Mr. Zielinski said he can still use it? Attorney Treadwell said the ordinance that the Township is considering adopting would just say the Township has no right to it. If you bought a lot in Steel City, you'd have certain rights to it. Mrs. deLeon asked to explain the 21-year rule. Attorney Treadwell said if the Township does not take any official action to accept dedication of a street or an alley or take any action out in the field, i.e., plowing the street, cutting the grass, anything like that, within 21 years of the date of the subdivision plan when it's offered for dedication, then the Township loses those rights. That's why he said earlier because of the 1915 date on the Steel City plan, the Township may not actually have any right to it anymore anyways. Mrs. deLeon said if we give up our right, but technically, we may not even have it, everybody that lives in Steel City has the right to use the land as they bought it and it shows all the streets and all the open alleys. We're not up here to give you legal advice on that part of it. Attorney Treadwell said the Township never owned the alley to begin with as it never accepted dedication. That's why it's called a paper alley because it only exists on a plan. Mrs. Yerger said that's how you purchased your home, so however you purchased your home. Attorney Treadwell said there are rights for access. Mr. Zielinski said they do park back there sometimes. His wife has health issues so if they park in the back, there are no steps. Mr. Maxfield said you are accessing through the grass to your property? Mr. Zielinski said yes. Mr. Maxfield said there is no paving or gravel. Mr. Zielinski said they use it several times a week. Mrs. deLeon said is there any way you can access it from the other end? Mr. Zielinski said he can continue to use it? Mr. Kern said it depends what's on the deed. Attorney Treadwell said the deed probably is described to a point to a paper alley to the back of x, y, z. The deed won't describe the rights. They are basically rights of access. You don't necessarily have the right to go back there and use a shed, but you have a right to access it. Mr. Zielinski said the power company comes to trim the

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trees several years back, and they said use it, that's fine, but no permanent structures. Attorney Treadwell said that may be an electric easement which may coincide with the paper alley, but it's not technically a Township issue. Mr. Maxfield said do you maintain it at all? Mr. Zielinski said he does cut the grass. The paper alley is 20' wide and he cuts about 18' of it. Mr. Maxfield said has anybody suggested that you lose your usage of it? Mr. Zielinski said if you vacate part of it, somebody else could request a vacation and then he's stuck. Attorney Treadwell said the 10', half of the alley that abuts your property wouldn't be vacated unless you request it. What you are saying if a neighbor on either side of you vacates it, then you are stuck with your little piece in the middle, but you still have your right of access to get to your property. Mr. Zielinski said even if it's not all vacated? Attorney Treadwell said you have an access right to get back there. Mrs. deLeon said is this a two part process, if somebody wants to pursue the next step, they have to get their own lawyer? Attorney Treadwell said if the Township vacates any paper alley or street, the Township has no right to that portion. If somebody would want to add that to their property, you have to go through another whole legal process which is called a "quiet title action" and you have to notify everybody that you are saying you want to add this to your parcel of property. You go before a Judge and you have a hearing. He thinks it's everybody on the subdivision plan. Anyone who purchased and has a right to use that alley has a right to get notice to that. If whoever this person is that is asking for vacation, if we decide to vacate it, he would still have to go through a second step to add it to his property to sort of control what goes on there and you would have to be notified. Everybody here would have to be notified and beyond that, who is that portion of the subdivision and they'd have a right to be at that hearing. Mrs. deLeon and Mr. Zielinski said they've never gotten a notice. Attorney Treadwell said that's the second step. Mr. Zielinski said for this step here, they never got a letter. They found out by accident. Mrs. deLeon said she did ask about that and Mr. Zielinski's name was on the list.

Ms. Alice Hicks, resident, said one of the issues is cars go speeding through the alley. The police have been involved in this. She's worried that if she walks from her yard into the alley, she has 18' arborvitaes, and she might get hit. Another issue is she doesn't understand one of the neighbors contesting this as she's lived there over eleven years, and for seven of those years, they have consistently blocked the alley on their own with lawn chairs, and a boat on their own. She doesn't understand how nobody could drive through the alley for approximately seven years. She couldn't because there was fire wood going across the entire alley and there was the lawn chairs for campfires and then for several months, there was a boat on a trailer completely blocking the alley. No one could drive through. Now there are vehicles being driven through not at a safe speed. Her property is 2152 Schwab Avenue and there's a shed, and an arborvitae. It's a safety concern she has. Attorney Treadwell said are you in favor of the vacation? Ms. Hicks said yes. Attorney Treadwell said it's grass, it's not a Township road. He doesn't know who is speeding through there, and that's an issue that's actually not part of this vacation, but they can certainly look into it. Ms. Hicks said she's just advising what is going on in this grass alley.

Mr. Maxfield said what is the length of the vacation? Mr. Miller said it is 199.68' long and 10' wide. Attorney Treadwell said the vacation of that portion of the alley by the Township doesn't necessarily stop a car from driving through it. Mr. Kern said vacating or not vacating is irrelevant. That's a police issue. If you are noticing that, you have to call them. Ms. Hicks said the police have been out already.

Ms. Joanne Redding said she likes all of her neighbors and would like everyone to be friendly and reasonable. It doesn't have to come to this to stop people from maybe driving through it fast. She's never seen that. She only wants access to her part of the alley so she can have her wood delivered and her mulch delivered. She'd like to see everybody get together and solve this without coming to a public hearing.

Mrs. Thomas Louder said she wanted to reiterate that Ms. Redding is on the other end of the alley, so it wouldn't affect that. It stops at our line. It has absolutely nothing to do with your wood delivery and anyone driving in on that end. The entrance in and out of there would be fine, just so

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you don't worry about that. There is a property that is owned by the bank and going up for auction right on the corner of Schwab. They own the other half of the double and we considered the purchase of that property. They are looking at vacating that portion. Right now there is a fence bordering their property line. They have storage there for firewood. This is to just let you know that's where it's at. Mr. Maxfield said the alley is still the alley. Technically, we'd be vacating a portion of it. That doesn't take the alley use away from the rest of it. Mrs. Louder said they would incorporate it into their deed if they considered purchasing that other property, it would. That's when they would incorporate it into their deed. Mr. Maxfield said you would still have to deal with the historical access rights of the people that have been using it. Attorney Treadwell said he believes what she is saying is if she purchases on both sides of the alley and then do a quiet title action in-between, they could own that contiguous piece. It would still be subject to those access rights of everybody in the subdivision. Mrs. deLeon said that would be step 2. Everybody here that has concerns, she hopes they are addressed and you understand them. Mr. Maxfield said our vacation will have any bearing on anyone's access rights.

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

SECOND BY: Mrs. deLeon

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

ROLL CALL: 5-0

MOTION BY: Mr. Maxfield moved for approval of Ordinance No. 2011-07.

SECOND BY: Mrs. deLeon

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

ROLL CALL: 5-0

IV. DEVELOPER ITEMS

A. THOMASZ NIEWIAROWSKI – 1767 WYNDHAM TERRACE – WAIVER REQUEST OF MINIMUM DISTANCE FOR INFILTRATION DEVICE

Mr. Kern said the applicant is seeking stormwater management waivers to utilize existing onsite features as a form of stormwater management. The additional stormwater management is required because of the installation of a walking path on the property.

Phil Seibert, Landscape Architect, was present. He said he prepared the original plan from which the Niewiarowski's obtained the approval to build their home. He has the data about what was actually built and the extent of the violation of the ordinance. After approval of their plan and after completion of their home, they actually added a walking path, which is approximately 4,000 square feet of impervious surface. It's small granite sets about 4" square. In between the sets is sand mixed with mortar, so it's actually solid. It's not a porous surface. If it was porous, he doesn't think there would be a problem. The one thing that was not reflected in looking at the amount of impervious on the site was the entire driveway they built on the site, which is about 6,600 square feet; the entire driveway is a porous granite paver driveway. It does not have concrete with the sand mixed between the joints and it soaks up water like a sponge, so that 6,600, more than offsets the 4,000 square feet of the walking path itself. What they are doing is they would like that driveway to be considered, after the fact, as an infiltration device. It would not meet the Township's standards for an infiltration device as it's located in one place too close to the structure, the home itself because the Township ordinance says it has to be 50' away, and there are other considerations listed in the application for the waivers. Mr. Maxfield said the pavers that you are talking about in the driveway; those won't meet our pervious unless the pavers themselves are made out of pervious material, it's not going to meet our pervious definition. Mr. Seibert said it may not meet the Township's pervious definition, he hasn't looked at that recently, but it would meet standards for county-wide applications of NPDES permitting. A porous pavement could be constructed of pervious pavers as long as the joints between them were porous and sufficient joint area to absorb water between the pavers.

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Ms. Stern Goldstein said there are two separate issues. Mr. Maxfield is thinking about the zoning ordinance issue for impervious surface ratio. That's not the issue here. This is a stormwater management issue. It's not a zoning ordinance violation for maximum impervious surface. It's a stormwater management violation for the construction of the path without implementing stormwater management facilities. She wanted to separate the two issues as the zoning ordinance impervious is a very different and important thing. Mr. Maxfield is correct. No matter how porous that driveway would be if it was paved, if it was stoned, it would count as impervious for the zoning ordinance component. She just wanted to explain the difference.

Mr. Maxfield said he had questions when he read the staff recommendations. Please explain them. Mr. Miller said the over arching issue is that this facility was not designed to be an infiltration facility. After the fact of trying to accommodate a violation by acknowledging that they did something good, which was by going with the pervious driveway, but then it wasn't necessarily designed as we would require it to be. It was coming from a frame of reference that he got the impression that certain members of Council were in support of not requiring the full blown analysis of this project and allowing them to basically take impervious in one spot and give back impervious in another spot that had originally been designed to be impervious. From that frame of reference, he took a look at all the regulations that would apply and listed them in the waivers and then one thing in particular that he thought was a concern was the proximity of the home. Because of that, the number one condition is the hold-harmless condition because the infiltration facility, the driveway, effectively goes right to the home and will actually pond to the home. That's why it's in there. We don't want the Township's approval to come back on it. Everything else is just the stormwater agreements and provide the plans and the normal things. These are the regulations that would apply if they were to propose something today by ordinance and they don't want to, they want to use what's in the field.

Mr. Maxfield said other than the ponding you talked about, is there any identified existing stormwater concerns from that site? Mr. Miller said not that he's aware of. Mr. Kern said would the ponding on the driveway occur with or without the extra pathway that was constructed? Mr. Miller said the ponding would be a result of providing a catch. There was a discussion whether or not the driveway will actually capture the water and while we're okay with them having no kind of an analysis on whether the actual volume is there, several versions of the plans that went back and forth showed a landscaped berm to make sure water actually got captured and that it wouldn't run off. In particular, in the event if it's pervious today, it might not be pervious in the future, just clogged up. In that event, they've never experienced ponding for any extended period of time currently. Hopefully, they never do. This would be not as a direct result of this pathway.

Mr. Horiszny said do we know what the impervious coverage is? Mr. Miller said the limits of zoning, the limits of stormwater design? Mr. Horiszny said for the entire property? Mr. Miller said he can check that to be absolutely sure right now. Mrs. Yerger said because of this walkway, did you see any storm water issues or any problems arise? Obviously the path is very close to the perimeter of the property and the potential impact to the neighbors. That would be her concern. Mr. Miller said to answer Mr. Horiszny's question, he looked up the last plan that was submitted had slightly less than 9% impervious cover. This is going to be less than a percent increase and 20% is permitted so we are well within the zoning requirements. To answer Mrs. Yerger's question, there are no existing stormwater problems; however, upstream of this is an undeveloped property. As far as whether or not they truly get back to existing conditions, there may or may not be more water coming on to the property in certain instances and that may impact whether you have ponding or not. Mrs. Yerger said according to the new regs, the stormwater isn't allowed to leave the property? Mr. Miller said we do our best, but it's not a perfect system. Mr. Maxfield said when you said upstream, you meant like up flow? There's no tributary problem? Mr. Miller said there's no stream, but it's uphill of the property. Mr. Maxfield said as long as we have that hold-harmless agreement, he doesn't see a problem with granting the request. It's what it is now.

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- MOTION BY:** Mr. Maxfield moved to approve the staff recommendation for waivers in the July 20, 2011 letter.
- SECOND BY:** Mrs. deLeon
- Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

B. SAUCON VALLEY SCHOOL DISTRICT – POLK VALLEY ROAD – REQUEST WAIVER OF LAND DEVELOPMENT

Mr. Kern said the applicant is proposing upgrades to two playing fields as well as the track and field house. The improvements will create no additional impervious coverage.

STAFF RECOMMENDATION FOR WAIVERS FROM THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AND STORMWATER MANAGEMENT ORDINANCE FOR CONSTRUCTION/RENOVATIONS TO ATHLETIC FACILITIES ON SAUCON VALLEY SCHOOL DISTRICT CAMPUS 2097 POLK VALLEY ROAD, TAX MAP PARCEL Q7-20-3

The Lower Saucon Township Staff recommends that the Township Council approve the following waivers for the 2097 Polk Valley Road property to renovations to the athletic facilities as proposed in a sketch dated July 15, 2011, as prepared by Herbert, Rowland, & Grubic, Inc.:

1. Chapter 137 (Ordinance 2007-05) – to not require stormwater design (analysis and plans) for this project at this time in accordance with Township regulations.
2. Chapter 145 (Ordinance 2003-04, as revised) – to not require design, submission, and review of a Land Development Plan(s).

Subject, however, to the following conditions:

8. The area and nature of disturbance shall be limited to what is shown on the Sketch Plan provided.
9. The total amount of impervious, as defined in the Zoning Ordinance, shall not increase as a result of this project.
10. A Grading Plan shall be submitted, reviewed, and approved in accordance with Chapter 77 (Ordinance 2007-01).
11. The currently proposed features will be considered as proposed features (not existing features) for future Land Development and/or Stormwater Plans submitted to the Township. This requirement shall be noted on the Grading Plan.
12. All waivers granted shall be noted on the Grading Plan with the applicable section, requirements, date of approval, and any conditions of approval.
13. The Applicant shall pay any outstanding escrow balance due to the Township in the review of the Plans and the preparation of legal documents.
14. The Applicant shall satisfy all these conditions within one (1) year of the date of the conditional approval unless an extension is granted by the Township Council.

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Present - Mr. Stephen Beady from Herbert, Roland and Grubic; Andy from the architectural studio and Wally Zimpfer from the district. Mr. Beady said they've been tasked by the school district to design multiple improvements to the athletic facilities. You may be aware of this as it's an ongoing project by the school district. They are moving forward with permitting and as it relates to the Township, they are requesting a waiver from the land development ordinance and from stormwater requirements. They have submitted that letter to the Township last week. He would like to give a brief summary of the improvements. Starting on the left side, there is an existing small backstop, so they'd be removing turf and replacing clay infield. In the center of the baseball field and the soccer field there is a drain that sort of exists on the outer edge of these athletic fields and they are proposing to remove that drain. They are going to correct that sump area so it's a more safe level surface. This field sheet flows through to Academic Way, so this drain doesn't serve a lot of function and he's kind of curious why it was ever placed there. He suspects it had a different purpose at a different time. In the center of the plan, you will see the building which is the bleacher building. Under those bleachers is a make shift weight room and storage, and then there's a newer addition, which is the wrestling room. The school district proposes to construct an addition on the rear of the bleachers and that would be a new weight room and new restrooms that would meet accessibility requirements. Those would be family-style restrooms. Not gang type toilet restrooms. There are three of those and then some renovated storage areas. Moving on the football field, there is an existing cinder track placed around the football field that's original to the construction of the high school. That cinder track will be renovated to a rubber synthetic surface and brought up to current track and field standards as it relates to slope and lane sizing. In the end zone is the pole vault pit and long jump pit, and they will be reversed to take advantage of the prevailing winds. Right now it's a head wind and they'd like it to be at tail wind. Lastly, based on upcoming regulations and the swapping of the seasons with field hockey, the school district needs to construct a new field hockey field. That will be placed in the outfield of the baseball field that is on the far east of the school district. When we're under construction, this would appear to be the biggest construction site as they have to cut out a portion of the hill that exists as there are two upper practice fields. They need to cut into that embankment to provide for a full size field hockey field. With all of these improvements, there is some minor stormwater conveyance improvements like the drainage from the two fields flows to an existing inlet to the bottom of the hill and they are moving the hill so they have to put in a new drain and some pipe. They have to make some minor modifications to the drainage on the inside of the track. Those inlets are right on the edge of lane one. They are a little unsafe and need to be moved in towards the football field and we have to make sure we have proper drainage off that synthetic track so its protected for the long term and not harmed by standing water and then picking up roof leaders on the new building addition.

Mr. Kern asked if this was the last cinder track in existence? Mr. Beady said no it isn't. Mrs. Yerger said beyond where you are putting the field hockey field, isn't there a drop down to the baseball field? Mr. Beady said that's the hillside they need to carve back. They are cutting a bit of excavation out of the site to be hauled off the site. That same drop is going to be there again, it's just going to be moved. If they level it out or ease the slope, they would wind up taking away from the practice fields even more.

Ms. Stern Goldstein said the building addition on the back of the bleacher building is going on the existing impervious? Mr. Beady said yes. They were at the staff meeting last week and he'd like to think that one of the main reasons they believe a waiver is acceptable in this instance is they are not increasing impervious coverage. We'd all agree the cinder track is impervious as it's packed cinder. The building is being constructed on an existing paved area. That paved area is not necessarily open for the public. It's more for emergency vehicles for deliveries to the track and field, football area, and accessible parking. It's a gated area.

Mr. Maxfield asked what portions of the land development plan would you think is too onerous that you don't want to go through and you want to waive? He's trying to get from the consultants what you would not want to lose? Ms. Stern Goldstein said basically they would need to prepare a

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site plan. They did the grading plan and the E&S plan, stormwater management plan. The landscaping is going to be limited to seeding. They are not proposing any parking. No building addition to be occupied or added to the use. There are street trees at the perimeter already. The thing they are looking for is the process and the length of time it takes from the full process. From what she understands is they are not asking for any break on the plans themselves. It's a process of subdivision submission, not even the review from the consultants, but from the Planning Commission and through Council. Council approves everything, but the cycle through the meetings is what they are looking for relief from. Mr. Beady said generally yes. He discussed with the Zoning Officer and they are going to do their calculations on the natural features analysis. This all goes out for public bid and is designed and they will prepare contract documents. They will slightly modify them for our zoning permit and our grading. It is the procedural, what they are seeking relief from. It's one less hurdle. Generally, these hurdles cost money. It's tax payer's money and time is money here. Ms. Stern Goldstein said it was made clear that zoning compliance is required whether they get a waiver of land development or not. The waiver of land development applies to the subdivision land development procedure and ordinance issues. The zoning needs to be complied with no matter what and they've indicate they understand that and will need to comply with that. Mr. Beady said except for some very minor tweaks, they can comply with the zoning. It's just offering the proof for compliance. He would also note they are submitting for an NPDES permit, construction related – grading and excavation. There are some hurdles there that also overlap. It's nice to have one set of eyes regulatory wise looking at this design project and that helps from a design factor also.

- MOTION BY:** Mr. Maxfield moved for approval to grant the waivers from subdivision and land development ordinance per the staff recommendation of July 20, 2011.
- SECOND BY:** Mr. Horiszny
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

Mr. Beady asked if there was a separate motion for stormwater management? Attorney Treadwell said no, it's all in one.

Mrs. Yerger said they were privy to some of the other things they are going to do on the other side of the schools as far as the naturalization of the detention basins, and the proposal looks really great.

C. LONG RIDGE SUBDIVISION – RICHARD BROOKS – BROOKS DEVELOPMENT

Mr. Kern said Richard Brooks from Brooks Development has requested an opportunity to discuss with Council the impact fees that were required by the Long Ridge conditional use approval.

Present – Mr. Richard Brooks; Mr. Jim Seibel from First Trust Bank. Mr. Seibel explained who he was with First Trust Bank and how they were involved.

Attorney Treadwell said the bond has expired. Ashley has also said through Mr. Brooks that they are unable, financially, to obtain another bond anywhere else. Mr. Seibel and Mr. Brooks are here this evening asking that you basically waive the condition that they be required to post a bond to guarantee the payment of those fees. Mr. Seibel and the bank have indicated they will pay the fee that is due for that lot. Mr. Seibel said in addition to the four that are existing. The finished model home where they had an agreement, it fell apart because of a mortgage denial and interested parties in two of the other partially constructed homes. They understand from Mr. Garges that two of the four impact fees were paid by Gigliotti and two were not paid. They are prepared to pay the two that were not paid and pay any of the other three lots they own should they achieve buyers for those lots or should a successor/developer come in to buy those lots. They would pay those fees each time a permit is requested or in the case the finished model where there was a temporary CO for Gigliotti when he had a sales office. They converted that sales office to the appropriate plan three-

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car garage, met the water condition requirement to complete that and electrical modification to meet a final CO requirement, and then they are told because of this issue, they couldn't get this CO. Now they have three interested parties in that house and they are holding off offers until they get a resolution from the problem. Meanwhile, two of the interested parties in two of the houses, they have one offer in-hand and one offer pending. They want to be able to say they can't do anything to have a permit requested to finish the house or to convey the property to you as long as there is a violation under the conditional use. They are sort of stuck with the objective, they are not a developer, they are a bank trying to sell the property that they took back.

Attorney Treadwell said there's not a question of the payment of the \$4,000.00 per lot fee, it's just the security. The security was basically offered by the applicant at that time as additional insurance. In reality, he doesn't think we'd ever really use the bond because if they don't pay the fee, they don't get the permit. It was extra insurance. That's what they are asking – that Council now waive that requirement. Mr. Brooks said they are looking for the CO scenario. Anyone in today's building world would rather not put out the \$4,000.00 until they had a buyer and that's what the money was used for anyway, for the traffic. Attorney Treadwell said the conditional use decision requires payment of the fee at the time of the building permit. Any lots from here on in, the fee needs to be paid at the time of the building permit. This case happens to be Gigliotti somehow got a building permit without paying the fees, so we're now at the CO stage. Mr. Seibel said of the four units (not the two that were delivered as they had the impact fee paid) and the model home, which is finished, it never had its impact fee paid at the time of permit. It's an open item that he didn't realize until his meeting in April existed. Then the other one was the other one of the two smaller homes. One of them was paid at permit time and one wasn't. They have to check with Mr. Garges which one is which. They are prepared for all four of them or the open lots whenever a permit is paid. Attorney Treadwell said he just wanted to make sure, for Council's purposes, that we are not changing the date of when the fee is due. The date is still prior to the issuance of the building permit. The only thing being requested of Council tonight is that you agree to waive the additional security that was required.

Mr. Kern asked if Council was willing to waive the additional security that was desired?

- MOTION BY:** Mr. Maxfield moved to waive the security that was originally required for the traffic impact fee.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
- ROLL CALL:** 5-0

D. UPDATE ON PHOEBE MINISTRIES

Mr. Kern said Council requested that staff provide an update on the status of the Phoebe Ministries request for a Zoning Text Amendment.

Attorney Treadwell said in your packet is a timeline that he prepared and went over at your last meeting. The timeline remains the same. There still has been no contact from Phoebe regarding their request to change the zoning ordinance language since the Planning Commission recommended that it not be changed. The situation we are in is still the same and if Council doesn't take any further action from this point forward, then your zoning ordinance remains as it is. Since your last meetings, one of the reasons it's back on is Phoebe has paid the outstanding invoices that were due. In addition to making the payment for the outstanding invoices, they also gave the Township an extra \$1,500.00. He contacted Mr. Preston, Phoebe's attorney, and explained to him that there was an overpayment in the amount of \$1,500.00 and had a discussion about what they are going to do with that. Mr. Preston said he will send a letter to the Township asking that the file on this matter be closed and that the excess money on the escrow account be returned to Phoebe. That will provide you with the letter to your file which will give you closure.

V. **TOWNSHIP BUSINESS ITEMS**

A. **ZONING HEARING BOARD VARIANCE – SHARON & TIMOTHY SMITH – 2654 QUINCY AVE. – VARIANCE REQUEST OF FRONT & SIDE YARD SETBACK FOR GARAGE**

Taken off the agenda

B. **AWARD OF ROAD MATERIALS BID**

Mr. Kern said a bid opening was held on July 11, 2011 for pervious concrete and E3M Emulsified Asphalt material. The Township Manager will review the bid results with Council.

Mr. Cahalan said they opened the bids on July 11th and they received no bids on the pervious concrete bid advertisement, so they will have to rebid that time. On the E3M Emulsified Asphalt material, they received two bids. The first bid was from Eastern Industries, Center Valley, PA and the bid was at \$2.70/gallon. The second bid was from AMS Asphalt Solutions in Center Valley, PA and they bid \$2.38/gallon so they are the low bidder. He would ask Council to award the bid to AMS Asphalt Solutions in the amount of \$2.38/gallon. That's for 16,000 gallons of E3M Emulsified Asphalt plus or minus delivery.

MOTION BY: Mrs. Yerger moved for approval of the E3M Emulsified Asphalt material to AMS Asphalt Solutions in the amount of \$2.38/gallon.

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

ROLL CALL: 5-0

C. **AWARD OF BID FOR SALE OF TRUCK #2**

Mr. Kern said sealed bids were accepted and opened on July 7, 2011 for the sale of an International 64,000 GVWR 10-wheel dump truck with an 11' Root snow plow. The Manager will review the bids received.

Mr. Cahalan said this is a vehicle that Public Works is replacing. Roger keeps our vehicles in tip top condition. We put out an advertisement to accept bids. We received two responses. One was from Hereford Township in Berks County and the second was from Eldred Township in Monroe County. Eldred Township submitted a bid for \$27,598.99. We were presently surprised at that and are asking Council for approval to accept that bid.

MOTION BY: Mr. Horiszny moved for approval of the award of bid for the sale of Truck #2 to Eldred Township for \$27,598.99.

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

ROLL CALL: 5-0

D. **APPROVAL OF LETTER OF INTENT FOR REGIONAL POLICE STUDY**

Mr. Kern said the Township has agreed to join with Hellertown Borough in having the DCED Governor's Center conduct a regional police study. The two municipalities are required to approve a Letter of Intent to be sent to DCED requesting their assistance with this study.

Mr. Cahalan said after Council indicated they wished to join with Hellertown in the study, Council asked him to contact DCED to determine if there was funding available for this assistance. He contacted Ron Stern at the DCED Governor's Center. He indicated there was funding available and he urged us to submit the letter of intent. That's before you for authorization for Mr. Kern's

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signature. At their meeting this past Monday night, Hellertown Borough also approved the signing of the Letter of Intent. After that's completed, we will submit a letter to DCED with both letters of intent and we'll wait to see if we are found eligible for the technical assistance for the regional police study.

MOTION BY: Mr. Maxfield moved for approval for letter of intent for regional police study with Hellertown.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

E. RESOLUTION #47-2011 – TRANSFER OF MONEY

Mr. Kern said Resolution #47-2011 has been prepared for a transfer of money to cover unanticipated costs for the new fuel dispensing system and legal fees for special counsel.

**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:

<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	01.493.000	Contingencies	01.409.230	Diesel Fuel
\$ 20,000.00	01.493.000	Contingencies	01.409.231	Unleaded Fuel
\$ 15,000.00	01.493.000	Contingencies	01.404.312	Special Counsel

SECTION 2.

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

Mr. Cahalan said it is actually for increases in our diesel and gasoline costs. It's for legal fees and the increase in diesel fuel cost. That is contained in Resolution \$47-2011. We are asking for the transfer of \$20,000.00 from Account 1.493.000, which is the Contingency account to Account 01.409.230 for diesel fuel; \$20,000 from the Contingency account to 01.409.231, the unleaded fuel account; and \$15,000.00 from Contingencies to 01.404.312 Special Counsel fund. The reason for the unanticipated increase in our diesel cost is the price of fuel increased by almost 70 cents and that increased our cost for fuel by almost \$4,500.00 more than we anticipated in the 2011 budget. Coupled with that over the winter, we had multiple snow events and our diesel fuel cost for Public Works went up \$7,834.00 over last year. Unanticipated costs for those two items, diesel fuel and unleaded fuel. The special Counsel account was a police disciplinary matter that went to arbitration and we don't have the decision back yet. There was additional costs to have the Counsel represent the Township and the Police Department.

MOTION BY: Mr. Horiszny moved for approval of Resolution #47-2011.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

F. RESOLUTION #48-2011 – AUTHORIZING EXECUTION OF DUI GRANT DOCUMENTS

Mr. Kern said Resolution #48-2011 has been prepared authorizing the Council President to execute the DUI Grant applications on behalf of the Lower Saucon Township Police Department.

Mr. Cahalan said this is an annual grant that the Township submits for the DUI program. It's a joint program with Hellertown and Freemansburg Borough. They utilize the funding in the amount of \$34,116.00. That is used to conduct sobriety checkpoints. They do roving patrols; Cops in Shops; and two mobile awareness events in the twelve months of the grant period which runs from October 1, 2011 to October 30, 2012. This would be authorization for the Council President to execute the grant document.

MOTION BY: Mrs. Yerger moved for approval of Resolution #48-2011.

SECOND BY: Mrs. deLeon

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

ROLL CALL: 5-0

G. RESOLUTION #49-2011 – SUPPORTING MILITARY SERVING IN AFGHANISTAN

Mr. Kern said Resolution #49-2011 was prepared for the July 11th Concert in the Park honoring our military serving in Afghanistan during Operation Enduring Freedom.

Mr. Cahalan said this was requested by Margie George and presented to the Marine Corp personnel in attendance. Mrs. Yerger said this was a great idea.

**RESOLUTION SUPPORTING MILITARY SERVING IN AFGHANISTAN DURING
OPERATION ENDURING FREEDOM**

WHEREAS, the residents of the Saucon Valley are immensely proud and grateful for the service made by our military men and women serving in Iraq during Operation Iraq Freedom and in Afghanistan during Operation Enduring Freedom; and

WHEREAS, in the highest American tradition, the patriotic men and women of our active, reserve and national guard forces serve voluntarily in an honorable and vital profession by responding to their community and country in a time of need; and

WHEREAS, it is fitting and proper that we set aside time to honor these fine men and women for the sacrifices they make for all of us; and

WHEREAS, members of the United States Marine Corps, including Gunnery Sergeant Tscharnier Thomson, Corporal Norman Bowser, Corporal Michael D'Alessandro, Corporal Christopher Foxhill, Corporal Stephen Strybuc, and Corporal Raymond Sullivan, are being recognized and saluted for their service in Afghanistan during Operation Enduring Freedom at the Music in the Park Concert on July 10, 2011 at Dimmick Park in Hellertown.

NOW, THEREFORE, BE IT RESOLVED, that the Council of Lower Saucon Township, Glenn Kern, President; Thomas Maxfield, Vice President; Priscilla deLeon, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; hereby recognizes and salutes and honors these military service representatives for their service and dedication to the United States and to the residents of the Saucon Valley.

MOTION BY: Mrs. Yerger moved for approval of Resolution #49-2011.

SECOND BY: Mr. Horiszny

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

ROLL CALL: 5-0

H. **RESOLUTION #50-2011 – AUTHORIZE SUBMISSION OF LOCAL SHARE MUNICIPAL GRANT APPLICATIONS**

Mr. Kern said Resolution #50-2011 has been prepared authorizing the submission of 2011 Local Share Municipal Grant applications to the Northampton County Gaming Revenue and Economic Redevelopment Authority (NCGRERA) for funding for projects in Lower Saucon Township.

RESOLUTION AUTHORIZING THE SUBMISSION OF A LOCAL SHARE MUNICIPAL GRANT APPLICATION TO THE NORTHAMPTON COUNTY GAMING REVENUE & ECONOMIC REDEVELOPMENT AUTHORITY

WHEREAS, pursuant to the Pennsylvania Race Horse and Development and Gaming Act (Act 2004-71), as amended, local governments receive a “Local Share” of gross terminal slot revenues of certain licensed gaming facilities to support and enhance community and economic well-being and mitigate the impact of gaming and related activities; and

WHEREAS, Northampton County, as the host county to a licensed gaming facility receives gross terminal slot revenues which must be distributed as follows: 20% to the host city; 30% to the host county and 50% to the host county for the purpose of making municipal grants within the county, with priority given to municipalities contiguous to the host city; and

WHEREAS, Northampton County established the Northampton County Gaming Revenue & Economic Redevelopment Authority to administer these competitive municipal grants based upon impacts associated with licensed gaming facility operations; and

WHEREAS, Lower Saucon Township is a contiguous municipality to the City of Bethlehem which is the host city of a licensed gaming facility; and

WHEREAS, Lower Saucon Township has prepared a Local Share Municipal Grant Application for submission to the Northampton County Gaming Revenue & Economic Redevelopment Authority for projects that fall under the eligible uses of these funds.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Council of Lower Saucon Township hereby approves the submission of Local Share Municipal Grant Applications for Lower Saucon Township projects to the Northampton County Gaming Revenue & Economic Redevelopment Authority for funding for a police officer, police cruiser and a fire services vehicle projects.
2. That the President of the Lower Saucon Township Council is hereby authorized to execute the grant applications and transmit the application to the Northampton County Gaming Revenue & Economic Redevelopment Authority.
3. That grant funds, if awarded, will be utilized in accordance with the provisions established by the Northampton County Gaming Revenue & Economic Redevelopment Authority.

Mr. Cahalan said the next round of the grant money is upon us and we have to submit applications by the end of July. A resolution was prepared that indicates we'd like to submit applications for a police officer and police cruiser, a fire services vehicle and we will participate in a joint application with Hellertown Borough for Dewey Ambulance Equipment. He will read specifically what the items are and the amounts. For the police officer, this is to continue funding for the police officer that we received money for in 2010. This is being handled on a year-to-year basis although this is a multiple year request. That amount is \$78,242.11. The vehicle which we also received funds for we are requesting that again and that is in the amount of \$35,000.00. The total for that grant application is \$130,242.11. The second item for the Township is Se-Wy-Co Fire Company is requesting a fire rescue ATV and this is an ATV vehicle which is a four-door Kubota ATV that has

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a fire pump and a patient transport. This unit they intend to use in a variety of ways such as the evacuation of injured walkers or bikers from the rail trail, to extinguish any brush fires in remote areas including the rail trail, and transportation of fire fighters to remote homes in wooded lots. The cost of this vehicle is \$53,000.00. There is a trailer which goes with it which is \$10,000.00. That grant application will total \$63,000.00. The vehicle has everything on it that a fire vehicle has on it. The total amount under those two grant applications would be \$176,242.11. The joint application with Hellertown Borough is for Dewey Ambulance and it is for EMS Globe Lifeline EMA jackets and for Cairns 360R Rescue Helmets. That amount is \$17,840.00. Also, a Life-PAK 15 defibrillator and monitor for \$35,885.50. They are looking to do a re-chassis on an ambulance and that cost is \$107,863.00. Those are the grant amounts. We are finalizing the grant applications. We received the traffic counts from Hanover Engineering. We'll be putting them together and doing a comparison. We did the traffic count on all the major intersections and the counts are up 20% higher than they were last year from the casino. That will be submitted with our application to the Gaming Authority.

Mrs. deLeon said the only thing she'd like to see added to No. 1 would be to include the joint grants with Hellertown. The wording really isn't clear. Ms. Huhn said that has been updated and it's in your red folder.

MOTION BY: Mr. Horiszny moved for approval of Resolution #50-2011.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

I. RESOLUTION #51-2011 – APPOINT SPECIAL FIRE POLICE

Mr. Kern said Resolution #51-2011 has been prepared appointing Special Fire Police.

SPECIAL FIRE POLICE

WHEREAS, following nomination by one of our Township fire departments of any of its members whom they have concluded is fit for duty, all nominees shall be appointed/confirmed by Lower Saucon Township yearly and be sworn in within thirty (30) days of their initial appointment/confirmation; and

WHEREAS, said appointment/confirmation shall immediately be null and void upon the termination of membership in any of the Township fire departments; and

WHEREAS, the fire department shall then insure that its special fire police are equipped with, at a minimum, a badge and identifying hat or uniform; and

WHEREAS, whenever a Township fire company is dispatched or whenever the Manager authorizes response to an event, such as a carnival, Lower Saucon Township shall be responsible for Worker's Compensation Insurance; and

WHEREAS, prior to participating in non-emergency activities and emergencies where their fire company has not been called out, unless they come upon an emergency and no police are on scene, in other municipalities our special fire police shall insure that they have written authorization from the governing body of that municipality stating specifically the date(s), time(s), location, and duties the fire police are requested for. The written authorization shall then be forwarded to the Township Manager for final approval; and

WHEREAS, all Township Fire Police shall complete the Basic Fire Police program and a yearly, in-house refresher program or other State certified course, and must produce documentation for such to the Township each year.

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NOW, THEREFORE, BE IT RESOLVED, that the following persons are confirmed as Lower Saucon Township Special Fire Police.

Mr. Cahalan said the resolution is the standard language we've been including in these resolutions annually to appoint the members of the Fire Police and it explains what their duties and responsibilities are. Attached to that is the roster of appointees for 2011. They are only from Se-Wy-Co Fire Company. There are three members there who are Robert Gearhart, Captain; Ronald Horiszny, Lieutenant; and James Petrowski who we're requesting appointment as Special Fire Police.

Mrs. deLeon said her hat is off to them. She said it's unfortunate, but there was a time when all the four fire companies would be represented on this list. It's very hard with volunteers, so thank you.

MOTION BY: Mrs. Yerger moved for approval of Resolution #51-2011.

SECOND BY: Mrs. deLeon

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

ROLL CALL: 4-0 (Mr. Horiszny – Abstained)

V. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF JUNE 15, 2011 MINUTES

Mr. Kern said the minutes of the June 15, 2011 Council meeting have been prepared and are ready for Council's review and approval. He asked if anyone had any changes or corrections?

Mrs. deLeon said on page 8 of 20, line 15, we have too many eligibility words in there. The sentence should read "Parts of the act that states the eligible projects and ranking criteria are consistent with".

Mrs. deLeon said on page 9 of 20, line 50, add "tonight's gaming meeting".

Mrs. deLeon said on page 10 of 20, line 29, she should have said quotes as there were quotations. On line 33, after June 2, add quotes "Please know that the Gaming Authority does have a policy that applications may not be altered after the application deadline. Language was added to the most recent version of the grant guidelines clarifying this point. Moving forward, the Authority is clear that we will not accept requests for changes to the application after the application deadline".

Mrs. deLeon said on line page 10 of 20, line 40, add quotes "Thank you for your email. Just so you and Mr. Maxfield are clear, the County Executive nominates and County Council approves members of the Gaming Authority. Thank you for sharing Mr. Maxfield's letter. I've taken the liberty of sharing it with Authority members and staff".

Mrs. deLeon said page 22 of 24, there is an error in the amount of money. She didn't have the information with her. Between her and Stephanie, they were wrong with that amount. Hellertown was \$250,211.68, Lower Saucon was \$147,574.40; and the combined Hellertown and Lower Saucon was \$219,413.00 which totals \$617,199.08. They were including Northampton County EMS had submitted a grant and received \$125,000.00, which saved all of the fire companies in Northampton County money. They were looking at that as a regional benefit. If you add that up, and we didn't go through what the percentage for the areas was, we feel that \$742,199.08. The amount in there is wrong.

Mrs. deLeon said on page 11 of 20, line 4 it ends with "If you are dissatisfied with the process, are you willing to give back all the money?" There was no response to her question, so she'd like to put "No response" after that sentence.

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Mrs. deLeon said on page 11 of 20, line 28, it should read “that’s your responsibility informing Council” instead of “information informing Council”.

Mr. Horiszny said page 17, line 36, instead of “with regret”, it should read “with thanks”.

MOTION BY: Mrs. deLeon moved for approval of the June 15, 2011 minutes, with corrections.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 4-1 (Mr. Horiszny – No)

B. APPROVAL OF JUNE 2011 FINANCIAL REPORTS

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

Mr. Horiszny asked about the transfer of funds from the Landfill to the Capital Fund. Mr. Cahalan said that was part of the budget request about the transfer. It just happened to occur at this time of the year. That’s to fund capital purchases that you approved. Mr. Horiszny asked about the Kingston Park funding and would that cover the paving of the walkway and parking lot? Mr. Cahalan said the paving will not even come out of that account. We are, in fact, paying the landscaper for planting of Ella’s Garden and then that’s available for any other improvements to that park. Earlier, he mentioned we did not get any bids for the pervious concrete. That would be the pervious concrete that would be going up in the pathways. They are going to have to rebid that and get bidders as soon as possible. Attorney Treadwell said if we don’t get any bidders the second time around, then you have 45 days to pick someone to purchase it from. Mr. Cahalan said they’ll try to get that done as quickly as possible.

MOTION BY: Mr. Horiszny moved for approval for the June 2011 Financial reports.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions or comments? No one raised their hand.
ROLL CALL: 5-0

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

VII. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER

➤ Mr. Cahalan said the first item is casino grant related. They received in Hellertown a joint grant for pre-emptive devices for the traffic signals. The emergency services people requested these. They are devices on the traffic signals for when the emergency services are going through the intersection, they have an emitter in the vehicle. It turns it to a solid green so they can safely go through the intersection. They received \$128,000.00 from the Gaming Authority to install those on eleven traffic signals. There were six in the Township and five in the Borough; and to install emitters to 21 Township and Borough emergency vehicles. It’s been an interesting process and a long process to get the information from the emergency services personnel, particularly about what system to use and all of the specs for the equipment it was going to be installed on. Cathy and Leslie did get the information. They put it into a bid advertisement and we discovered we needed PennDOT to review the installation of these devices. Jim Milot did jump in and is assisting us with that. What we found out was that we are going to need signal plan diagrams to be prepared and submitted to PennDOT. They have to add the phasing sequence for the pre-emptive device. PennDOT has to review that. They have to make a field visit and they have to give us approval to install the device on the traffic signal. They also determined that of the eleven traffic signals, there are two intersections where the devices are already installed. That’s at the Creekside Market Place/Giant shopping center

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and at Walnut Street in Hellertown where the drug store is. That leaves nine traffic signals where we have to get PennDOT approval. Five of those are in the Township and four are in Hellertown Borough. Jim Milot has been in touch with PennDOT. He is going to put together the plan diagrams while we open the bids. We believe the contractors can give us a legitimate bid by the bid opening of August 4, 2011. We have a number of them interested in this. Jim Milot can submit the plan diagrams to PennDOT and we believe we can get this approval completed within a month or two, which will then give the go-ahead to the contractor who is awarded the bid to install the devices on the traffic signals. There is an additional cost and Jim estimated it would be about \$500 for each of the signals. For our five signals, we have an additional cost of \$2,500.00 to have Hanover Engineering prepare the plans. He gave this information to Hellertown Borough and the other night they decided to have their engineer, Barry Isett & Associates prepare the signal plans for Hellertown Borough traffic signals. He's asking for Council's approval to authorize Jim Milot to proceed with the planned diagrams at a cost of \$2,500.00. Mrs. deLeon asked how long will PennDOT take to do this? Mr. Cahalan said he hopes it is within two months. The deadline for installation is November 1st. They are confident they can get approval and the contractors can get them installed in the traffic signals and in the vehicles by November 1st. The other issue is they will look into whether this cost can be covered by the grant. He doesn't know the answer definitely, but Cathy and Tina will look into that. Mrs. deLeon said you said November 1st, is that when the contract was signed? Mr. Cahalan said November 1st is the deadline we're putting in the bid for the contractor who is awarded the bid to install the items by. Mrs. deLeon said remember the six month grant report you had to do for restricted, they wanted an update, so you have a year from when you received the grant money. Mr. Cahalan said they are trying to get this done by November 1st and that will be within the one-year window of the grant. Mr. Maxfield said there is not one at Route 412 and Water Street? Mr. Cahalan said there's one at Walnut and Route 412 and Creekside. Mr. Miller said device which would look similar to it instead of installing lines under the road to trigger the red light so you get a green light, sometimes it's optical and it looks similar. Mr. Maxfield said he knows there are triggers on Water Street, but the units on the poles are faced in the other directions. Mr. Miller said that might be for Route 412.

MOTION BY: Mr. Horiszny moved for approval the \$2,500.00.
SECOND BY: Mr. Maxfield
ROLL CALL: 5-0

- Mr. Cahalan said he had read the Hellertown Borough Council meetings minutes for June 20th meeting and, as Priscilla pointed out, the amounts that the Township, Borough and for the joint grants total were incorrect in the minutes. The amounts she just read out were the correct amounts. He did pass them on to the Borough Manager and she was going to ask that they be corrected in the minutes. There's a sheet in your packet that has the totals.

B. COUNCIL

Mr. Maxfield

- He said he, Mr. Kern, Chris Garges, Attorney Treadwell, and Mr. Cahalan met with PPL. They informed us about their cutting policies in the Township. We learned a lot and Mr. Garges and Attorney Treadwell may be looking into some of the information from a couple of municipalities that PPL referred to and hopefully they'll come back to us with some recommendations.

Mrs. Yerger – No report

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Mr. Horiszny

- He said the Lower Saucon Authority has completed the Walter Street main water replacement and sold the used front-end loader on the public sale website for a very favorable amount.

Mr. Kern

- He said at the last Joint Recreation Meeting we had on July 11th, the gist of it is, Bob Frey, the Athletic Director at Saucon Valley had a recommendation that one of the main starting points for the study group would be exploring joint operations for field maintenance, and also what he was trying to get at was the better the fields are, as far as quality of turf, the more they will be looked at as something people will want to go to both in our area and out of our area. That was the emphasis he would like to see for the initial part. Mr. Maxfield said his only concern would be that regardless who does it, we stick to the IPM. Mr. Cahalan said we've mentioned that the Township Park Maintenance Policy and the IPM would have to be maintained. Mr. Kern said if there was a grouping of effort, it would be following the IPM in addition to any other recommendations. Mr. Maxfield said regarding lawn chemistry, he talked to somebody whose sister is in the veterinary field, and they said there's been an alarming increase in nasal cancer in animals and they think it's due to lawn chemistry. We need to set an example.

Mrs. deLeon

- She said on July 27th, the Hellertown-Lower Saucon Chamber of Commerce will hold their annual picnic at Lower Saucon Township Park pavilion from 6:00 pm to 9:00 pm. There's a \$25.00 fee and you must pre-register. It's from Sagra Bistro who will be the caterer and the Hawaiian Luau will be provided by downtown Hellertown Sagra Bistro. Kuaia pig will be slow cooked, roasted pork shoulder, with herbs and spices; boneless chicken breast; side dishes and dessert will also be available as well as lemonade, iced tea and beer. Register by July 21st for an evening of socializing with Chamber members. Bring the kids. There's a playground. If anyone is interested in going, tomorrow is the deadline.
- She said for the Heller Homestead Art Gallery, the next artist reception is Monday, August 15th from 7 pm to 9 pm and it's the Cosgrove's. They will have an exhibit with art work and photography.
- She said Community Day is coming up August 20, 2011.

D. SOLICITOR – No report

E. ENGINEER – No report

F. PLANNER – No report

VIII. ADJOURNMENT

MOTION BY: Mrs. Yerger moved for adjournment. The time was 9:22 PM.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 5-0

Submitted by:

Jack Cahalan
Township Manager

Glenn C. Kern
President of Council