

**I. OPENING**

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

**II. PUBLIC COMMENT PROCEDURE**

**III. PRESENTATIONS/HEARINGS**

- A. Metro PCS – 1995 Leithsville Road – Conditional Use Hearing

**IV. DEVELOPER ITEMS**

- A. Phoebe Ministries – Skibo & Friedensville Rds. – Discussion of Proposed Zoning Ordinance Amendment
- B. Cobble Creek – Skibo Road – Update Discussion from Previous Meeting

**V. TOWNSHIP BUSINESS ITEMS**

- A. Zoning Hearing Board Variance
  - 1. Steven & Thalia Camp – 2435 Alpine Dr. – Variance Request to Place Fencing in Flood Plain and to Construct Building in Portion of Riparian Buffer
- B. Resolution #62-2010 – Opposition to Proposed Legislation Mandating Force Mergers and Consolidations of Local Government
- C. Revision to EAC By-Laws

**VI. MISCELLANEOUS BUSINESS ITEMS**

- A. Approval of August 18, 2010 Minutes

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

**VIII. COUNCIL & STAFF REPORTS**

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

**IX. ADJOURNMENT**

Next Planning Commission Meeting: September 16, 2010  
Next Zoning Hearing Board Meeting: September 20, 2010  
Next Council Meeting: September 15, 2010  
Next Park & Rec Meeting: September 13, 2010  
Next EAC Meeting: September 14, 2010

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**I. OPENING**

**CALL TO ORDER:** The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, September 1, 2010 at 7:01 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, President, presiding.

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

**PLEDGE OF ALLEGIANCE**

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

**Mr. Kern said Council will be meeting in Executive Session after this meeting to discuss potential land acquisition and litigation.**

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

Mr. Kern said if you are on the agenda, you have Council and Staff's undivided attention. At the conclusion of the discussion, they do open it up to the public for public comment for each individual agenda item. If you do speak, we ask that you use one of the microphones and state your name clearly for the record. We transcribe the minutes verbatim and 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. He asked if anything has been taken off the agenda? Mr. Cahalan said no.

**III. PRESENTATION/HEARINGS**

**A. METRO PCS – 1995 LEITHSVILLE RD. – CONDITIONAL USE HEARING**

Mr. Kern said Metro PCS is proposing the co-location of a commercial communication antenna on an already existing tower. This requires approval through a conditional use.

**STAFF RECOMMENDATION FOR METRO PCS EXTENSION AND CO-LOCATION OF CELL TOWER – 1995 LEITHSVILLE ROAD – TAX MAP PARCEL R7-17-36  
CONDITIONAL USE AND SITE PLAN APPROVAL**

The Lower Saucon Township Staff recommends that the Township Council approve the "Metro PCS Pennsylvania, LLC PH0553B – Leithsville" Plan, as prepared by Valore, LLC, last revised April 22, 2010, consisting of Sheets T-1, Z-1, S-1, and S-2, along with all exhibits received on August 19, 2010.

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.

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2. The Applicant shall comply with all applicable provisions of the Township Ordinances that may be pertinent to the project, whether specifically enumerated herein or not.
3. In accordance with the Ordinance requirement, the Applicant shall post security in a form acceptable to Lower Saucon Township in favor of Lower Saucon Township in an amount to cover antenna removal and site cleanup, and execute a Security/Hold Harmless Agreement to the satisfaction of the Township Solicitor.
4. The Applicant shall address, to the satisfaction of the Township, the review comments contained in the letter dated August 25, 2010, from Hanover Engineering Associates, Inc..
5. The Applicant shall address, to the satisfaction of the Township, the review comments contained in the letter dated August 11, 2010, from Boucher & James, Inc.
6. The Applicant shall provide two (2) Mylars and seven (7) prints of the Record Plans with original signatures, notarizations, and seals. Four (4) complete sets of Plans shall also be provided with original signatures, notarizations, and seals. The Applicant shall also provide two (2) CDs of all Plans in an AutoCAD format (jpeg-ROM).
7. The Applicant shall pay any outstanding escrow balance due to the Township in the review of the Plans and the preparation of legal documents.
8. The Applicant shall satisfy all of Conditions 1 through 7 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.
9. The Applicant shall have a continuing obligation, during the operation of the project, to provide Lower Saucon Township with immediate notification of any renewal, cancellation, or other change in the status of all Federal, State, and other outside agency permits required for the operation of the project.
10. Any change to the type, size, or number of antennas shall require the Applicant to submit, and obtain approval of, a new Conditional Use Application.
11. Any violation of these conditions shall subject the Applicant to the same penalties set forth in The Code of the Township of Lower Saucon that would be imposed for the violation of a provision of Chapter 180 contained therein, as well as any other legal remedies available to the Township.

**MOTION BY:** Mr. Maxfield moved to open the conditional use hearing

**SECOND BY:** Mr. Horiszny

Mr. Kern asked if there were any comments or questions? No one raised their hand.

**ROLL CALL:** 4-0 (Mrs. deLeon- Absent)

Attorney Debbie Shulski was present. She said this is a co-location application to co-locate telecommunication antennas on an existing tower. The proposal does involve a 12' extension; however, that was in the venue of the Zoning Hearing Board and they had to go to them previously because of fall zone setbacks. They were before this board prior to going to the Zoning Hearing Board. This will be the second time you will see the application. She would propose to summarize her witnesses' testimony after they were sworn in. She has pre-marked exhibits which she will be distributing to Council. They are here to answer any direct questions you may have. They have an affidavit of the posting of the property. She referenced in the packet and will give the original to the Township Solicitor.

William Blessing, Radio Frequency Expert and Roger Johnson, Civil Engineer was sworn in.

Attorney Shulski said Mr. Blessing would testify as to his credentials and qualifications in the field of radio frequency. His CV is marked in your packet as Exhibit A-5 and he was previously qualified as an expert in this municipality. He would testify that Metro is authorized to proceed forward with the application that's before you this evening pursuant to a lease between the tower owner, and that lease is marked as Exhibit A-4. He would further testify that Metro is licensed by the FCC. The FCC license is marked as Exhibit A-6. Under its FCC license, Metro is required to provide what's known as reliable coverage. Reliable coverage is the opposite of unreliable coverage in being able to maintain

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and initiate a call without experiencing a busy signal and drop call or where it goes directly into voice mail. He would further testify that he would prepare a propagation analysis, Exhibit A-7, which depicts the existing coverage in Lower Saucon Township and in the surrounding area. The white area depicts the gap in coverage, as you can see there is a significant gap in coverage; so therefore, if a user were in the stretch of the Township, he or she would not be able to initiate or maintain a reliable call. Exhibit A-8 depicts the proposed coverage when the facility is up and running and also assumes the proposed coverage for the sites in the surrounding area. The area that was shown in white, a portion of that area is now shown in green. The green coverage depicts the reliable coverage. Exhibit A-9 shows the amount of coverage that is extending from this proposed site. The propagation analysis demonstrates that the antenna must go where it's proposed in order to satisfy its function in the company's grid system. Mr. Blessing would testify that Metro will co-locate whenever possible, as preferred by the municipality as it eliminates the proliferation of new towers in the Township and it is also preferred by Metro. Part of Mr. Blessing's testimony would be that the facility complies with all of the required antenna levels and the maximum permissible exposure levels. Those levels are all governed by the FCC and as you're probably aware within the purview of this board, as long as Metro complies with the relevant FCC standards, it's not permitted to be a basis for denial of a zoning application. Exhibit A-10 is an electromagnetic field report prepared by Dr. Foster, which demonstrates that the levels are way below what the acceptable FCC limits are. You could probably put an additional 1,000 antennas up and it would still be below those levels. In accordance with Dr. Foster's report, these facilities are very, very low transmitters. They operate at power levels comfortable with emergency services, police, and those types of facilities. Mr. Blessing would testify that the facility complies with all applicable ordinances and conditional use standards. Many of those standards are not relevant to these types of facilities because this is a co-location and a lot of your standards are geared more towards construction of a new tower. Section 180-127-1.j requires the facility comply with all applicable FCC standards, govern electromagnetic fields, and the Dr. Foster report complies with that standard. Section 180-127.1.m.1 requires demonstration that there's a need for the site and the propagation plans marked as Exhibit A-7 through A-9 demonstrate compliance with that requirement. Section 180-127.1.n requires that the facility be removed if abandoned and certain requirements with respect to inspection and posting of financial security. Mr. Blessing would testify that Metro is agreeable to those and would comply with those ordinance requirements at the appropriate time. Lastly, he would testify that the facility complies with all the applicable state and federal regulations as well as all local regulations and that the facility would not cause any interference with other providers in the areas. That would essentially summarize Mr. Blessing's testimony. She asked Mr. Blessing if he affirms that as his own testimony? Mr. Blessing said yes, he does. Attorney Shulski asked if he had any corrections or additions? Mr. Blessing said he did not.

Mr. Kern asked if there was anyone that had any questions on this? No one raised their hand.

Attorney Shulski said their second witness is Roger Johnson, Civil Engineer. His credentials are shown on his CV which is shown as Exhibit A-11. He would testify that this office prepared the site plan that is before you this evening and that the plan accurately depicts what is being proposed. The site plan is marked as Exhibit A-12. The property contains an existing 130' tall monopole telecommunications' tower. There are three other carriers that were already approved and already existing on that tower. Their antennas are on towers of 115', 130' and 138'. Metro is proposing to extend the tower by 12' so the overall antenna height would be 150' and they did receive approval from the Zoning Hearing Board with respect to the setback height issue. That decision is marked as Exhibit A-3. Mr. Johnson would further testify that the additional antennas will comply with all applicable structural requirements and that the facility will be designed in accordance with the applicable safety and industry standards and all appropriate building code regulations. A structural report was prepared and marked as Exhibit A-14 in accordance with Section 180-127.1.i of the zoning ordinance. He would further testify that the facility doesn't require any water or sewer and no lighting, produces no noise and; therefore, has a De minimis impact. There are only monthly maintenance trips and it has a De minimis impact on traffic and no impact on public infrastructure. He would further testify that the site complies with all applicable standards of the zoning ordinance. A number of these

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do not apply to this type of application, but it does comply with the relevant ones in accordance with Section 180-127.1.a. A site plan was prepared and reviewed by both your Township Engineer and the landscape architect. The height of the antennas does not exceed 25' above the structure in compliance with Section 128-127.1.d.2, and as previously mentioned, a structural report was submitted. Also Metro received what's known as a PAL letter which demonstrated that SHIPPO NEPA approval is not required for the additional co-location. Back when the original tower was constructed, they had to do a Phase I environmental study and they had to obtain SHIPPO approval and those documents are marked in the package. The original Phase I environmental study is marked as Exhibit A-15. The SHIPPO approval is marked as Exhibit A-16, and the PAL letter, which basically says there haven't been any substantial changes from what was originally approved; therefore, they don't need to go back before SHIPPO to get another approval and that's marked Exhibit A-19. Mr. Johnson would further testify that he reviewed the Township consultant review letters and that the applicant complies with those comments subject to the waivers that were requested and that the Planning Commission had recommended. Many of the items in the letters have been addressed by virtue of the documents and testimony that she is providing this evening. In addition, the Planning Commission did review the application and made a favorable recommendation that the conditional use be granted and also reviewed and recommended on certain waiver requests with respect to the site plan portion of the application. Last, Mr. Johnson would testify that the proposed use serves the best interest of the Township, the convenience of the community and public welfare by making wireless telecommunication services available including to the residents of this Township. That would essentially summarize the testimony of Roger Johnson. She asked Mr. Johnson if he affirmed that as his own testimony? Mr. Johnson said yes. She asked if he had any corrections or additions? Mr. Johnson said he believes it was stated there was going to be no lighting. There is a small work light that is proposed. It is mounted to the equipment at a height of approximately 6' and points down at the equipment. Mr. Maxfield said they were told at Planning Commission that it's motion activated. Mr. Johnson said no, it's usually manually operated and on a timer. Mr. Maxfield asked for how long? Mr. Johnson said only for a couple of hours.

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

Attorney Shulski said they only had two witnesses this evening and she would only request that their exhibits be entered into the record.

Attorney Treadwell asked if there was any other public comment regarding this application? No one raised their hand.

**MOTION BY:** Mr. Maxfield moved to close the hearing  
**SECOND BY:** Mr. Horiszny  
Mr. Kern asked if there were any comments or questions? No one raised their hand.  
**ROLL CALL:** 4-0 (Mrs. deLeon- Absent)

Attorney Treadwell said there is a staff recommendation in your packet; however, what we normally do is prepare the conditional use decision, bring it back for you at your next meeting or your October 6 meeting. He would suggest we do the site plan and the conditional use at the same time if that's okay with Attorney Shulski. Attorney Shulski said that was fine. Attorney Treadwell said he will send her a copy ahead of time.

Mr. Kern said there were some items in the Hanover letter and the Boucher & James letter. Did you receive a copy? Attorney Shulski said they did and she did mark them and include them in the package. It's the Township Engineer review letter dated August 11, 2010. There's a more recent one which she hasn't seen, but her Engineer has seen it and it is dated August 25, 2010. The landscape architect review letter is dated August 11, 2010. Ms. Stern Goldstein said that is the most recent review from them. Mr. Kern asked if Council had any comments on the Engineer or Planner's letter? There's one about the screening materials that exist there. They seem to be dying or they are not

screening anymore. Attorney Shulski said Metro is agreeable to complying with that recommendation and replacing the screening material. Mr. Kern said there is no action until their next meeting.

**IV. DEVELOPER ITEMS**

**A. PHOEBE MINISTRIES – SKIBO & FRIEDENSVILLE ROADS – DISCUSSION OF PROPOSED ZONING ORDINANCE AMENDMENT**

Mr. Kern said Phoebe Ministries would like to discuss with Council their proposed request for a zoning ordinance amendment.

Mr. Richard Brooks said they are here to discuss a very important project for Phoebe Ministries and for the residents of the Township as well. Scott Stephenson, President of the Ministries could not be here this evening, but he will be at the next meeting. Ms. Lisa Pereira from Broughal DeVito; Mr. John Beckman from Wallace, Roberts and Todd; and Mr. Jason Englehart from Langan Engineering were present. They wanted to come in as it has been since June 16<sup>th</sup> when they approached the Council to discuss a particular idea they have pertaining to the CCRC, and on June 16<sup>th</sup> the Council voted to allow them to work with the staff and try to put together a new CCRC or a draft CCRC ordinance and text. It has been some of the pleasant times they've had together over the last three months and he thanks the staff and the Township Manager and Zoning Officer for meeting with them as they were meeting every other week. Tonight is more of a progress report. These are our ideas for certain things they have worked over the last three months and they thought it would be important to get together with Council, not to request a vote, by any way shape or form, but to just give you a progress report and to discuss factors for consideration that the staff and the people around this table worked very diligently for this particular program, but there are certain things that you, and you alone, can make decisions on. They cannot, so they thought they would bring up some factors for consideration. They will be going to the Planning Commission so they can move forward and come back with a recommendation from Planning and move this process forward. With that, he wants to turn it over to Mr. Beckman, the people responsible for putting this Power Point and ideas together.

Mr. Beckman said just to reorient everybody to where they are, this is the property that Phoebe is interested in. If you look on the aerial photo, Hellertown is to the east, Friedensville Road is the northern boundary; Meadows Road is the west; and Skibo is the south. There is a closer view, and the area in light green is the area which they propose that this zoning text change be applied. They've been working very hard to produce a conceptual site plan and he wants to emphasize the word "conceptual". They've gone about as far as they can, so this is a pretty good idea of where they think the project would likely go if it goes ahead with about 350 units. About 30 or so would be in cottages; some of them attached, some of them single and located in the south off of Skibo and Meadows Road and in the north there would be a skilled nursing and assisted living buildings, low rise, one to one and a half stories. There would be a chapel, a common building which would have a lot of the shared facilities like dining, exercise, meeting rooms, craft rooms, barber shop and the like; and two independent living buildings which are essentially condos and apartments where people would be living. The main entrance is proposed with the landscape median off of Meadows Road, and located very carefully to maintain the big stand of existing woods on the road and the road is designed to the topography and really allows kind of a transformative view into the site with the chapel and all the open space. This is the concept as they have it now. Lots of ideas in here are recommendations for the dangerous intersection at Skibo and Meadows to be relocated similar to the Heritage proposal and smoothed out, made into a T intersection and that these excess parcels of land be given to the adjacent landowner so this has made a much safer intersection and regularized for traffic. As Mr. Brooks said, they've been having lots of discussion and it's been very helpful as their thinking is general, then you get down to specifics and they were aided a lot by working with your experts and staff. There are four factors that need further consideration and input. The first is the zoning text itself which they have been working on in a form. They've tried to make it very

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simple to work with the experts and staff by highlighting the key issues so that it's not anywhere a legal form yet, but that will be delivered to the Planning Commission on time for the September 16<sup>th</sup> meeting. They use that to make it very clear what the proposal was and what the issues were and that's been modified considerably as they've gone ahead. That's been a very helpful device. The other three issues, he will summarize what they are proposing.

Mr. Englehart said the first issue relates to the sanitary sewer service. They've been doing their homework on sewer service for this site and the one of the things they did was look at what was currently allocated to the property and 49 EDU's are allocated to the property based on your mapping. 42 is what you probably had associated with the Heritage project and we added the Donaldson piece to the tract which pulls in another seven EDU's. This 49 allocated, they did research on what the sewer requirements would be and they looked at what they are generating at their Berks campus as a comparable, and they were more conservative with those numbers and rounded those numbers up to establish that they needed about 35,000 gallons a day or about 88 EDU's to support this project. They are going to request a minimum of 39 additional EDU's be allocated to the project, which aren't there now. They had numerous discussions with LSA and there was a general discussion that there is adequate capacity available and that there are locations at the Council's discretion where it would be discussed to reallocate some sewer allocation that's not being used now to this property. One possible location was the South Mountain area where there's 200 EDU's currently available. That's not the only option, but a potential place they would ask Council to possibly move some EDU's to support his project. He does have a "Will Serve" letter from the LSA. Mr. Davidson's letter was very clear that it's subject to the Council allocating what we need to support the project.

Mr. Beckman said one of the proposals they are making is that the maximum building height allowed in this area is 65' and there are a couple of reasons behind that. One of the key features of the Phoebe Ministries Continuing Care Communities is the chapel and they tend to have high steeples on them. The other reason is that the architectural design in mind is a very residential looking community; no flat roofs, all sloped roofs, and those can add some height above what the average roof for the habitable space is. There are a couple of things, and one is because of the architectural character they want to establish this as being a homelike residential environment with the sloped roof. The other is that the higher extension of the roof allows you to hide the roof mounted HVAC equipment so it's not visible from anywhere. Those are the reasons they are recommending this height. There are some related recommendations they are making. They are proposing a perimeter buffer yard of 50' which is a area for landscape and screening, and they are further proposing that any building higher than 35' be set back an additional feet from that 50' for every foot of height it exceeds 35'. The maximum building height of 65' would be set back 80' from the property line. There are diagrams to illustrate this. Even with relatively modest landscape in the 50' perimeter buffer yard, you are not likely to see much, and certainly with the existing hedgerows, you'd basically be looking at forest. That is for the maximum height building they are recommending it be 80' setback, which is a substantial distance. They also prepared a couple sections through the site. One goes from Meadows Road through the eastern boundaries, so the section on the bottom is Meadows Road and on the right is the development outside of the property. One of the interesting things this revealed is there is some pretty drastic elevation change on the property. If you tried to locate the taller buildings, the only buildings that would exceed the 35' height limit beyond the chapel are the independent living buildings. There is an L-shaped and an F-shaped building and those are the independent buildings and they've tucked them into the topography so that the bottom parking level is really built into the hillside. If the high point of the property is up along the eastern and southern edge it tends to slope down towards Friedensville Road. The topography really helps. The section reveals that there is a high point. There's existing vegetation on the east. There's the buffer yard and a setback and the 65' buildings proposed beyond that setback, and then the property falls off. There's not alot that will be seen from that direction. The second section looks straight east from Skibo Road and basically shows there will be a number of cottages. There's considerable distance between the property line and any

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development. A large part of that is the desire, and also partly out of necessity to design a richly landscaped development and making it successful with the people who are likely to reside there.

Mr. Englehart said the next slide touches on impervious surface. They spent a lot of time with your professionals discussing impervious surface and they understand your sensitivity to it. The current text has the impervious ratio at 45% of the net buildable site area. To put that in perspective, this site is 57 acres, about ten acres will come out of that which will be open space in perpetuity, so 45% really translates to about 37% of the site being impervious surface. They recently added a section to the text that requires anything over 40% of the next buildable site area to be constructed of semi-pervious materials. They are adding a section that says "semi-pervious materials may include pervious pavement, pervious concrete, open grid paving systems" and these are highlighted. The overflow parking areas will very likely be pervious pavement; sidewalks may be pervious concrete in an effort to address stormwater concerns and also a green sustainable project. They intend to incorporate these things and they've now incorporated them into the text of the ordinance.

Ms. Pereira asked if Council had any questions? Mrs. Yerger said what is your estimated support staff for this facility? Your doctors, your nurses, your cafeteria workers, she imagines it's going to be a sizeable staff. Mr. Brooks said they can give you the numbers from their Phoebe Campus, which is much larger than the one down in Berks County, which has three shifts. Mrs. Yerger said the parking facilities don't look very large for the amount of residents/staff/visitors you are going to have in this facility. Is there parking somewhere else? Mr. Englehart said the larger buildings that Mr. Beckman was reviewing before, the first level is parking. That's where it could be misleading. Mr. Beckman said one of the reasons for that is to hide it so you don't have more impervious surface and it's not visible in the landscape. The first level of those tall buildings is structure parking, out of sight, out of mind.

Mrs. Yerger said we are looking at a proposed zoning amendment, so she assumes it's going to be advertised and we're going to go through the hearing process with the residents. This is substantial, a different facility than what is currently across the street from it. We need to hear what their responses are. This is not what it's zoned for. This is not what the neighbors moved in for it to be zoned for, so we need to hear from the community. It's their neighborhood.

Ms. Pereira said they are beginning the process of gathering all this information and putting it into a formal ordinance for review. They are scheduled to go before the Planning Commission on September 16<sup>th</sup> and that will be the first step in this formal process of them moving forward, and then eventually it will go into the public hearing before Council and it will be advertised. The proper procedures will be followed. Mr. Maxfield said just to make that clear, it's our responsibility to send it onto the Planning Commission. Mrs. Yerger said in light of that, is our staff comfortable that it's ready to send on to the Planning Commission? Attorney Treadwell said the proposal is to amend the zoning ordinance and basically what the amendment would do is create a new use, which the applicant is calling the CCRC use. That use would then be permitted as what's being proposed in the zoning district that they've identified on the map which you saw. There would be a minimum site requirement of 40 acres. That text amendment needs to be reviewed by your Planning Commission, the LVPC, there needs to be a public hearing to add it to the zoning ordinance, then you would need to vote on the adoption. Those are the procedural steps. After the applicant has met with staff, the big issues that stuck out were the 65' building height, the impervious 45% impervious coverage ratio, and the 25% open space. They mentioned sewer tonight, and that's completely up to Council if you want to move EDU's, a re-allocation from one to another in the Township, that's in your discretion. From that standpoint, based on the timetable the applicant has put together for themselves, they would like to go to the Planning Commission on September 16<sup>th</sup>. He thinks it will take more than one Planning Commission meeting before there are any recommendations. Built into the time line would be the October 21<sup>st</sup> Planning Commission meeting as well, and it may take more, it may not, we don't know that.

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Mrs. Yerger said you need to talk about moving EDU's. If that's what this is contingent on, we need to know where they are moving and how it impacts the rest of the Township. Attorney Treadwell said that is part of the reason why it's before you tonight to get your approval to send it on to your Planning Commission as those are questions with the staff review of the proposed amendment, we're at the point where we're at a standstill until the Planning Commission can look at it, and make some recommendations based on their review, there's nothing more the staff can do, which is why the next step would be to give it to your Planning Commission. Mrs. Yerger said as long as our staff feels this is sufficient information enclosed with what they are going to be proposing. Ms. Stern Goldstein said she can reiterate what Attorney Treadwell said. There was a lot of information provided in the packet tonight, and she's sure there will be even more. The real issues are they've given them as much input as they can and they chose to use some of the input and disregard some of the input. There's certain things they need to make the project work and there are certain things Boucher & James asked for on behalf of the Township. What's before you is what they believe is their best effort to come to the Township. It's not something that we're all as staff saying this is the one. This is what the applicant is proposing. At this point, they can't get anymore answers from the staff as they don't have anymore answers for them. If they do not move on to the Planning Commission and then on to Council for real answers, they are not going to get anywhere. Without moving it forward, they can't get those answers, and that's where we are tonight. Mr. Maxfield said just to be clear with the rest of Council, there is no proposed zoning amendment text yet, so what we would be sending Planning Commission right now is things to think about, the same things we talked about tonight. If he remembers right, the time line is by the 2<sup>nd</sup> Planning Commission meeting, there will be amendment text to look at which will be October 21<sup>st</sup>. Mrs. Yerger said where do we fit in the resident's commentary? Mr. Maxfield said it would be at the Planning Commission meetings.

Mrs. Yerger said is there a way we can notify these property owners? Attorney Treadwell said you can notify whomever you choose to notify. The way the zoning ordinance amendment would proceed is the zoning ordinance amendment would be published, advertised for a public hearing, and if you want to go over and above those requirements, that's certainly within your prerogative. Not because this is a text amendment, it's a little different than a map amendment. A map amendment you would see posted out on the property. The MPC and your zoning ordinance don't require any posting for a text amendment. Mrs. Yerger said she feels we need to do our due diligence to the neighborhood. Mr. Maxfield said he agrees. Mrs. Yerger said it's a radical change to their neighborhood. Mr. Brooks said they are so proud of what they do and how they do it, and we're so proud if you want to post it, he'd be the first one out there to post it. Mrs. Yerger said it needs to be out there. Ms. Stern Goldstein said she wants to caution that Council is posting this property as the current Phoebe proposal, but the proposed draft text amendment at this time is talking about permitting this CCRC use, within that zoning district. In theory it could be somewhere else in the Township in an R20 district. If someone had assembled a block of 40 acres, this could be permitted elsewhere also, so she doesn't want to concentrate on this one parcel. Granted Phoebe's presentation is all about that parcel, but the way the tax amendment is, it's not spot zoning, it's permitting a new CCRC use in that district. It's not likely you are going to see a lot of CCRC. Mr. Kern said there's not a lot of R20 parcels that have 40 acres and sewer and water. Ms. Stern Goldstein said no one of these parcels was 40 acres either, they've cobbled them together. Mrs. Yerger said once the zoning and the text is amended, there it's quite possible we could have one of these someplace we would not be happy with. Ms. Stern Goldstein said it's a township-wide issue, not a neighborhood-wise issue. Mr. Maxfield said maybe we should follow the zoning kind of requirements for posting the distance away property that touches property whatever we use. Treat it as if it were a zoning variance for notification. He doesn't think we could notify everybody in R20. That's a lot of properties. Mr. Horiszny said we can always put it on the website. Attorney Treadwell said he and Jack will come up with a way to get the notice out there as much as they can. Mr. Kern said it's important to hear from the neighbors, and he's surprised we haven't heard from them already as there was an article in the Morning Call when this project was announced. Normally, from past experience, if there's someone concerned, we hear

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about it immediately. Mrs. Yerger said because it's come to their attention multiple times, she did not see anything about lighting. She understands you are going to have to accommodate residents next year and staff also that will be coming and going. We need to look at that and the traffic impacts. Mr. Maxfield said we have had serious problems where Bethlehem abuts up to Lower Saucon and Bethlehem chose to have spotlights shining down to light up their parking lots, but Bethlehem didn't see it like that. Mrs. Yerger said we also need to know the potential fiscal impacts.

Mr. Kern said he had some comments about the 65' height. If there would be a way to get architectural standards if this is deemed okay to proceed; standards to dictate that it is a pitched roof and you can only have pitched roofs as the design process proceeds, all of a sudden Phoebe Home doesn't do this project and puts up a 65' building with a flat roof and the units on top, so just somehow to make it part of the process that it is going to be a pitched roof and it has to be a pitched roof. To write into whatever the agreement may be, that there's a setback requirement for 65' tall buildings and you can't put a 65' tall building x number of feet from the road. Mr. Maxfield said they are proposing 80'. Mr. Beckman said for every foot above 35' it would be an additional foot beyond the 50'. Mr. Kern said currently the taller buildings are in the lower topography just so they maintain that building. Ms. Stern Goldstein said one of them is on the higher area, but they are showing one story of parking and then four stores above it. Mr. Beckman said it depends how you use the topography.

Mr. Allan Johnson said he wondered if we had fire equipment that could handle a fire in a 65' building? Mr. Horiszny said yes, we do. Mrs. Yerger said can one ladder be sufficient? Mr. Scott Krycia from Leithsville Fire Company said Se-Wy-Co has 105' bucket truck which would be more than able to handle that. Mrs. Yerger said how many people can you get out of a four story building. Mr. Krycia said you are not going to be 65' up. Mr. Kern said that's the pitched roof line. Mr. Krycia said it depends on a bunch of things. Where the truck is positioned, how far the ladder is extended, what is the weight load. In reality, he doesn't think they would be taking many people out in the bucket as they would be using the existing stairwells and working with their evacuation program they would have in effect. It's very similar to what Hellertown does with 1050 Main Street. They have a procedure for that. If we needed another truck, the next truck would be Upper Saucon. They have the equipment to do it. Mr. Kern said what about sprinklers? Mr. Brooks said it would be just like a hospital. It's required by code. Mr. Horiszny said the staff size would be an important thing to take to Planning and the impact that will add. Mr. Kern said the lighting and the traffic impact will be important. Mr. Horiszny said 45% is a scary number for impervious. Mrs. Yerger said she agrees, especially in that area where they had water problems before.

- MOTION BY:** Mr. Horiszny moved that we allow Phoebe Ministries go to Planning Commission on September 16, 2010.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if there were any comments or questions? No one raised their hand.
- ROLL CALL:** 4-0 (Mrs. deLeon- Absent)

**B. COBBLE CREEK – SKIBO ROAD – UPDATE DISCUSSIONS FROM PREVIOUS MEETING**

Mr. Kern said staff would like to update Council regarding the landscaping in the Cobble Creek subdivision that was brought up at the previous meeting under public comment.

Mr. Cahalan said they provided Council with as much information as they could that described their communications with the developer and also with the HOA at Cobble Creek and some emails with the Myers. They also have copies of the approved plan which includes the landscaping from

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Cobble Creek from 2003, and a copy of the proposed landscape plan that the developer gave us that was done by Plantique. They hope they provided you with enough information.

Brian Straka, President of Cobble Creek HOA, was present. Mr. Cahalan said they also gave you a copy of the extension approval that was given to the developer back in January and with that, there was a review letter from Boucher & James indicating they had gone out and inspected the property. The letter states what deficiencies there were in the approved plan which was 35 trees and 27 shrubs. That's where it stands. It was up to Ashley Development to come back to us and request to go into the maintenance period. In order to do that, they had to provide escrow funds so that our consultants can review the plan and give you some recommendations. They have not been able to do that, so it's basically at a standstill. We've heard from the HOA and they have some ideas for finishing up the landscaping and he's not sure whether that is the Plantique plan or a variation of the Plantique plan. We assumed that would come before you when the developer came into maintenance, but it's all at a standstill. That's where it is right now. Attorney Treadwell said when this came up at your last meeting we didn't have all of the information in front of us. He thinks he can sum it up by saying there's a landscaping plan that Council approved originally for Cobble Creek. That plan has the number of plantings required and it shows general areas and locations as to where these plantings should go. It doesn't say specifically in this spot, in this spot. That's the plan you approved and part of the record plan and the one we're operating with currently. The Cobble Creek developer got an extension the time he needed to complete that plan last year and that extension would have expired September 4<sup>th</sup> of this year. In July 2010 the state legislature and governor saw fit to pass and sign the permit extension act which extends everybody's time for completion until July 2013. The developer of Cobble Creek now has until July 2013 to finish that planting. We are basically stuck with that. The newer plan, the Plantique plan was one that Ashley Development had hired Plantique to come up with and a way to meet the deficiency requirements of the 35 shade trees and 27 shrubs that you saw in the Boucher & James letter that Mr. Cahalan talked about that earlier. That plan shows a little more specific locations as to where plantings would go, but again, as Mr. Cahalan alluded to, that plan has never been before Council and has never been approved. It was the intent of the Township staff that when Ashley posted the money to allow the Township staff to review it, that plan would come before Council, the HOA would be notified, Ashley would be notified, the residents would be notified and we would have a discussion as to what made the most sense going forward from this point regarding plantings. That hasn't happened as Ashley hasn't posted the money necessary to make that happen. That's where we are today. There was a question at the last meeting regarding what if Ashley doesn't meet the requirements of the current recorded plan, they now have until July 2013 to do that. Mr. Kern said there's nothing the Township can do? Attorney Treadwell said there's a recorded, approved plan that must be complied with by July 2013. Mr. Straka said is that the one that has the 35 plants deficiency? Is that the original one without the 35? Ms. Stern Goldstein said no, there's a plan and what is planted has 35 trees less than what was on the plan. There's an approved plan and what's been planted doesn't comply with the approved plan, and they have until July 2013 to make it work or to come back and figure out something else. Mr. Maxfield said none of this moves until we get an escrow.

Mr. Straka said this wasn't explained to the HOA. It was explained to the HOA that if the one plan that had not been approved by this Council, that we had the ability to put in as the HOA a plan that would pretty much be more acceptable for grass cutting and would be a little bit more cost effective. The current plan that they had proposed, which has not been approved, has 17 trees on a slope, and the slope is not shown on the plan, but it would increase the grass cutting and it just kind of is a ridiculous amount of trees in that spot, so they proposed that they have Plantique do a new plan, and this may be different than the Plantique plan you are talking about. The HOA at this point, currently, contracted Plantique and said we would like these 17 trees in these positions. Since the other plan was approved by Ashley when there was no HOA at Cobble Creek at that time, now there is a board and the HOA now has to look at the 18 units and see what is going to be fiscally responsible for this. Now they looked at the 17 trees and said it's a ridiculous plan with the

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slope and the landscaping, and their landscaper said that as well. They went back to Ashley and said can we alter this. They said you need to do a whole new plan so they could submit it to Council. They did that. There is now a new Plantique plan that they contracted with Plantique to do, with positioning these 17 trees, that the board felt would be better suited for the community. Ashley has this plan. Ashley never told us about the escrow. They basically said do this and pay for this new Plantique plan, and we'll put it in front of Council. They figured we probably weren't going to do it, but we did. Mr. Kern said they probably didn't think they were going to run out of money. Mr. Straka said they actually have a new Plantique plan and he has an email from Ryan Pektor saying they are not allowed to submit it to Council, so you have no record of this until now. It does exist and does incorporate the wishes of the residents of Cobble Creek. Mr. Maxfield said the wishes of the residents and HOA of Cobble Creek is one thing, but from a Township position, what we have existing is an approved plan. Come 2013 if the escrow hasn't been paid and you guys have drawn up 20 plans, it doesn't matter. What we're going to be looking for whether that approved plan has been carried out or not. The escrow is important for us. Our policy is we don't even accept plans if there is nothing to review and there's no money to review the plans with. Right now, that approved plan is the official plan of Cobble Creek, so until it goes through the process, that's the way it will remain. The wheels of that process are greased by the escrow, and that's the way it has to proceed. He wouldn't want you to waste your time putting together plans that won't be reviewed. It does have to be submitted as part of this application by the developer, so you couldn't do it independently. Mr. Straka said they did do that, but they just didn't know and they never told us that and we knew it had to be soon because of the timing. Mr. Maxfield said the process has to occur. Mr. Straka said do we know if this money has been put into escrow. Attorney Treadwell said he's sure Ashley has gotten notification from the Township of the amount of the deficiency and the amount they need to bring in to get even and above even so the new plan can be reviewed. They've been aware of that for at least three months or longer. Mr. Kern said do we know how much that deficiency is? Attorney Treadwell said he doesn't know, but there's a sum of money that their account is in the red by x amount of dollars. They need to get that number back to zero and above so the professionals can review the new plan, whichever version it is. It's not something that will come as a surprise to Ashley, they've known this for many months. Mr. Straka said will the HOA be privy to any information as to when that is paid. Attorney Treadwell said if money comes into the Township and the review process can start again, they will certainly let them know. Mr. Cahalan said it would be on the Council agenda and they would notify them about that. Mr. Straka said that will be great.

Mr. Ed Myers, resident of Cobble Creek, said they understand Council's position on where they are with the plan. They'd just like to clarify that the 17 trees, when he says they are all on a slope, there are only eight of the 17 trees on the January 30, 2009 plan that are on a slope. When Boucher & James came out and the letter was sent to the Township, that was based on the Plantique plan of April 17. When they counted trees, that's the April 17 plan of 2007. Ms. Stern Goldstein said when they counted trees, they counted the trees that were planted on the site and then counted trees which were on the record approved plans and they determined the deficiencies. They were also asked to review one of the Plantique plans in 08 or 09 at some point to see if that would meet the numbers, and at that point, it still hadn't, but that was their attempt to change the plan the first time. It was never approved. The only approved plan is the recorded one and our letter noting the deficiencies was based on the approved plans. Mr. Myers said Ashley came out, and put the flags in on April 12 of this year, 17 flags, which were in accordance with the last plan on file at the Township not approved by Council, which the HOA board pulled the flags and elected to go to Plantique and have them come out in April, late May to develop a new plan, and here it is September, and partially because of the HOA's interference with this plan, nothing has happened and there was no action from April until now that the President of the HOA comes and speaks up of something to be done. The HOA board is not representative of the community. It's representative of a three man board who is making the decision because this has not been communicated since April to any of the residents by the management company. He did write to the management company in April and complained that the HOA board shouldn't be interfering as it's

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an agreement between Ashley and the Township. Ryan Pektor said it's an agreement between Ashley and the Township, so a lot of what is being interjected here is the HOA board is doing things now, which they shouldn't have been doing in the first place. He understands they can't do anything as we go back to the 2003 plan, but he also feels if Council would approve the plan done by Plantique which was given to the consultant and engineers, maybe Ashley could enter the maintenance period and come back to Council and ask if they can plant the trees as they have the trees.

Mr. Straka said the board did see the flags there and they questioned why it was done and there was no communication to the HOA, so they called Ashley and ask why the flags were there. They asked what approved plan this was under? Ashley said it was not an approved plan. Mr. Straka said if it's not an approved plan, why are the flags there. So they questioned the positioning of some of the trees as they did not want them there and so they actually called Ashley and said can we move this. They gave us a way to do it as it was not based on an approved plan. That was the route they took. Being the HOA and through the contract that everyone signs through Cobble Creek, they are in charge of the common areas; therefore, that is why they did what they did.

Mr. Kern asked if anyone had any questions? Mr. Horiszny said does this mean that the chain link fence out by the road isn't going to get screened until July 2013? That's probably another deficiency that isn't going to get done. Attorney Treadwell said when he discussed the extension permit act, there's nothing to stop Ashley from putting in the 35 and 27 that were identified in Boucher & James letter as being deficient and on the record plan. If that area you are referring to on the record plan shows plantings around it, they could go out and plant those based on that record plan. Mr. Straka said does this also mean that the sewer system that needs to be approved as we had an issue where the sewer line going out to Skibo Road was blocked, and that Lower Saucon did come out and was an internal issue because the sewer system that went from Cobble Creek to Skibo Road is still part in escrow; therefore, that block was and they did cover the payments, nothing was done. He heard from Lower Saucon it is part of the escrow. Attorney Treadwell said that's an escrow with the LSA, so it's an Authority issue.

**V. TOWNSHIP BUSINESS ITEMS**

**A. ZONING HEARING BOARD**

**1. STEVEN & THALIA CAMP – 2435 ALPINE DRIVE – VARIANCE REQUEST TO PLACE FENCING IN FLOOD PLAIN AND TO CONSTRUCT BUILDING IN PORTION OF RIPARIAN CORRIDOR**

Mr. Kern said the applicant is requesting a variance for relief to disturb floodplain soil which is 100% protected by the zoning ordinance, and will need relief to permit a fence to be erected in a riparian corridor.

Steven and Thalia Camp were present. Mrs. Camp said after the last Council meeting, Chris Garges spoke to her regarding the way some of the flood areas had been managed previously as recently as in the last five years. Mr. Garges said it had been done in a staged process with the first stage being at 25' from the water edge. He said it might be beneficial to go back and relook at what they had proposed and using what had been previously acceptable arrangements and modify our plan, so that's what they did. You all should have a copy of our updated plan. What she did after he spoke to her about that, she waded through the brush and down to the creek and measured from the edge of the water where it stopped and dry land began and measured out. You can see the green area is the brush area that is there, and that varied from 8' to 10' around that curved area. Then she measured out 17' to make the 25' where that edge of the fence would lie, which would be in the flood riparian area. There's a little brown dot there, which is a tree, and she was

hoping to have the tree inside the fence, but it didn't quite make the 25' so it goes on the other side. That tree will be able to continue to provide shade into the pasture. She didn't go down here because it was obvious more than 25' and it is all brush. With this whole portion, it's not even in the floodplain anymore, so it's just the lower edge down to the corner, but the triangle part is not in the floodplain. She did take some photos and she can show you what it would look like. She explained the pictures she had taken to the Council members. On the proposal, she said she would be willing to take it straight back where you can see the dotted purple line and cut out the one corner, but the corner, is not actually in the floodplain.

Mr. Maxfield said when you say it's not in the floodplain anymore, what does that mean? Mrs. Camp said the floodplain comes down and this area over here is not in the floodplain. Mr. Maxfield said it looks like that corner is in the floodplain according to our maps. Mrs. Camp said the one tiny piece is here, but the other area is not. The floodplain curves around and makes a corner here and it goes back up according to this drawing. Mr. Maxfield said the drawing they are looking at is the one her engineer prepared, the base drawing of it? Mrs. Camp said this is something Mr. Garges provided to her, the black and white portion of it that has the floodplain. Mr. Maxfield said it says proposed house, he gave you all that? Mrs. Camp said yes. Ms. Stern Goldstein said it's something that was probably on record and file for that property. It's not something that Chris prepared. It's a copy of whatever he found in the property files. Mr. Camp said in addition to working with the Zoning Officer and going back to a previously accepted 25' buffer prior to the Ivan storm in 2004, maybe this went into effect in 2005, they are very sensitive to the feedback they got from the Council at the last meeting about potential of debris, potential of obstruction of flow, potential of the fence being impacted by a wall of water coming over the road, so they feel that 25' buffer would account for all of that and it wouldn't be an issue. If water did come over the road, it still wouldn't impact the fence with that buffer or debris. With the fence that's proposed as well as it is a condition where it would not impede any drainage of water and to be able to handle 100 year flood or a low occurrence type of event, they feel this proposal is a compromise.

Mr. Maxfield said the 25' was the initial riparian corridor zone, then we had an additional 50' on top of that and that was before when we were 75'. Now we're at 100' with no zones. On the map, there's a tree line shown and the fence seems to cut way into the tree line, have those trees been removed? Mrs. Camp said they weren't there when they came and looked at the property. The tree line is behind the shed as you can see from the photos. She's not sure how accurate this is as far as is the floodplain really up that high. It's mostly to give a rendering of the plot of their land and the where the buildings were situated. She doesn't think this particular picture was the exact measurements. Mr. Maxfield said it may have been accurate at one time, but a lot of it is gone now.

Mrs. Yerger said she saw the fencing on the property, the split rail, is that what they are proposing? Mrs. Camp said the split rail is quite expensive and they put it there as that's in the front of the house and they wanted it more aesthetically pleasing. In the back, she was thinking more of the wooden posts with the white line that runs through it which gets electrified. The upper one is not electrified. She's seen some fencing around the property that's on the corner of Lower Saucon and Applebutter Roads, and their fencing has the wooden post and white braid line that runs through. That would be a lot less expensive than the split rail.

Mr. Maxfield said he appreciates that they rethought this and actually listened to what they said. He's going to propose that they take no action on this. You've come a long way with this and done things that are trying to mitigate the effects of it, even finding where the main flow and the other flow are. He's still a little nervous where it does encroach into the

floodplain. He rode past your house the other day and saw you outside with the horse and he felt very bad that you couldn't do what they wanted to do there. Mrs. Yerger said she knows what type of fencing she is talking about and this will not impede the flow of the water, like split rail with meshing. She's fine with no action. She agrees they've worked hard. Mrs. Camp said they only have one horse and highly unlikely that they would get another one. Her horse is doing very well on his own and very happy. Mr. Maxfield said if this works for you, it would be incredible. People should be able to enjoy what you moved here for and the fact that they compromised, impresses him.

Council took no action.

**B. RESOLUTION #62-2010 – OPPOSITION TO PROPOSED LEGISLATION MANDATING FORCE MERGERS AND CONSOLIDATIONS OF LOCAL GOVERNMENT**

Mr. Kern said Resolution #62-2010 has been prepared opposing House Bill 2431 and Senate Bill 1357 and any similar legislation that has been or may be introduced in the future to weaken the responsiveness and effectiveness of local government.

**RESOLUTION #62-2010  
RESOLUTION IN OPPOSITION TO PROPOSED LEGISLATION THAT WOULD  
MANDATE FORCED MERGERS AND CONSOLIDATIONS  
OF LOCAL GOVERNMENT**

**Whereas**, townships are excellent fiscal stewards that have been doing more with less ever since the days of William Penn and are run by elected officials who live and work in the communities they represent and are more committed to pinching pennies and working together to stretch tax dollars than anyone else in government today; and

**Whereas**, various special interests suggest that there are too many local governments in Pennsylvania and that reducing this figure through forced boundary change will somehow lead to greater economic conditions and the better delivery of services in the Commonwealth; and

**Whereas**, no one has ever proven that bigger, centralized government is better or even more cost-effective than township government; and

**Whereas**, governments that rely on consolidated county-based governments generally have higher tax burdens than smaller governments; and

**Whereas**, recent reports of financially distressed municipalities in Pennsylvania are largely contained to the Commonwealth's large cities and urban areas; and

**Whereas**, HB 2431 (*Session of 2010*) would, if adopted, change the Pennsylvania Constitution and establish the county as the basic level of local government in Pennsylvania, with municipalities existing only under the jurisdiction of the county and having only those duties and responsibilities as determined by the county; and

**Whereas**, SB 1357 (*Session of 2010*) would, if adopted, establish an unelected, statewide boundary commission to review and make conclusions to the General Assembly for the merger, consolidation, or annexation of municipalities; and

**Whereas**, Lower Saucon Township supports the voluntary merger or consolidation of local governments if the process is initiated at the local level and has the support of the majority of the residents of all affected municipalities.

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**NOW, THEREFORE, BE IT RESOLVED**, by 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:

1. That the Township of Lower Saucon, County of Northampton, opposes any measure, initiative, or plan that mandates the forced merger or consolidation of local governments; and be it further
2. That the General Assembly be urged to oppose HB 2431, SB 1357, and any similar kind of legislation that has been or may be introduced in the future to weaken the responsiveness and effectiveness of local government.

Mr. Cahalan said they had discussed this at the previous meeting and you indicated Council would like to support this resolution which was put together by PSATs to oppose this legislation which is House Bill 2431 and Senate Bill 1357. They prepared Resolution #62-2010 to do that. Mrs. deLeon had indicated that if Council does adopt this resolution, staff be directed to send a copy of the resolution to Rod Long, President of the Hellertown-Lower Saucon Chamber of Commerce. She indicated the Chamber is actually supporting these two bills.

Mr. Maxfield said the idea that County Council, as a representative government where we have one representative on that Council for our particular area, it seems the silliest thing ever.

Mr. Kern said local government is about the only thing that semi-works in government and the larger it gets, the more burdensome and cumbersome it gets. At least at the local level, it's our money that we are trying to protect and deal with. It is mind boggling that someone out of our area would be handling our affairs.

**MOTION BY:** Mr. Horiszny moved for approval of Resolution #62-2010.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if there were any comments or questions? No one raised their hand.

**ROLL CALL:** 4-0 (Mrs. deLeon- Absent)

**C. REVISION TO EAC BY-LAWS**

Mr. Kern said the EAC is recommending some minor revisions to their By-Laws for clarification purposes.

Mr. Cahalan said it's minor corrections and cleanup. Mrs. Yerger said there was one change in terminology. Attorney Treadwell said it cleans up the by-laws going back to one of the original resolutions that Council adopted. The last time they had this discussion was a couple of months ago and what has changed are now "members" and "associates" as opposed to "members" and "non-voting members". Both members and associates are under these by-laws appointed by Council. Some of the cleanup items were in Article 7, page 2, there were sub-sections a., b., and c., which really discussed how the initial members of the EAC would be appointed, which we no longer need as the initial members have already been appointed and that was covered in the ordinance you did that created the EAC. Those were deleted. Subsection C under article VIII, they added the words "For their recommendation to Council for approval when the EAC is recommending an associate be moved into a member position". On page 5, under Article 13 amendments, they added the words "approval of the Township Council that the by-laws may be amended by majority vote of the membership with the approval of Township Council". You approved them initially and are approving them again tonight. Mrs. Yerger said they did clean up on page 5 of 5 at the top, the sub committees, as there was language added into that.

Mr. Maxfield said his only concern is Article 8, c., he really doesn't see the need for c. at all. He thinks the process right now is the Manager goes through applications and select someone to be an

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associate member and that process has just worked fine. He doesn't know why we have to go through a review process by the EAC to accept members, it just doesn't make sense. He doesn't remember where that suggestion came from, but he doesn't agree with it. It's the Manager's job to do that. It's part of his job description to fill the boards, and he doesn't think the EAC should do that. Attorney Treadwell said you would have the Manager notify them. Mr. Maxfield said the associate is supposed to send a letter to the Manager anyway saying he's withdrawing from the position, so the Manager is informed. The Manager advertises, interviews candidates, and appoints with Council's approval to the board. The Manager can at any time, which he has done, ask the EAC for their opinion on things, but he doesn't think it should be mandated. It's his prerogative if he wants to ask for advice. Attorney Treadwell said the Manager would forward a name to Council for its approval and if he wants to ask the EAC, he can do that. Mr. Cahalan said he would be filling the EAC pool without conferring with the EAC. Mr. Maxfield said you could, but you don't have to, it's your choice. He doesn't want to take away from the Manager's job. The Manager makes those decisions on who to consult when he makes a decision. That's his decision.

Mr. Kern said all this is saying is that when a vacancy occurs, you are notifying the Manager, and he may not know when a vacancy occurs. Mr. Maxfield said anybody can tell him if there is a vacancy is an associate drops out. This is saying then that they forward the name of any interested candidates to the EAC for their approval as associates before Council ever really goes through the process. Attorney Treadwell said you are taking a step out of this process. It will be less time consuming for Mr. Cahalan to come to Council and say there's someone who is interested as opposed to going to the EAC for their recommendation, then coming to Council again. If you want to do that, that's easy enough to change. He changed it while we were talking to say that "Associates will serve on an annual basis. When a vacancy occurs in the associate pool, the Manager will advertise the position and forward the name of any interested candidates to Council for approval". Mr. Maxfield said that gives Mr. Cahalan the opportunity to consult anybody.

Mr. Horiszny said on Article 3 at the end, "the elected governing bodies within its territorial limits, and any agency or groups that the governing body directs". He thinks it should say "agency or group suggested by the governing body". The way it's stated, it has to be somebody that the Council directs and that's not what you're looking for. Mrs. Yerger said this one came right out of the EAC handbook. Ms. Stern Goldstein said this one looks to the EAC enabling legislation. Attorney Treadwell said it makes more sense the way Mr. Horiszny worded it anyway.

Mr. Allan Johnson, EAC member, said at the last EAC meeting, they voted to forward to Council the proposed revisions by himself. He wonders if they read them? Mrs. Yerger said she knows staff got them. They went to Attorney Treadwell first for legal reasons. Mr. Johnson said it doesn't sound like you included his changes in the by-laws. Mrs. Yerger said they were in our minutes and all part of our package. Mr. Johnson asked if the 04/13/10 by-laws are pretty much going to stay the way they are? Mrs. Yerger said we can give him a copy of the revisions. We talked about it going to the attorney first right from the start. Mr. Johnson said it doesn't look like you made the changes that he suggested. Mr. Kern said was this part of the EAC meeting where you brought up the suggestions, and did the EAC vote on your suggestions and incorporate them into the minutes to present to Council? That's where it should have been done. Mr. Johnson said he wrote up the revisions and the EAC voted to send them to Council to look at. Mr. Kern said it wasn't part of the process where they went through the EAC by-laws. Mr. Johnson said they went through the by-laws twice. Mr. Kern said if they voted to incorporate your suggestions, that's when it should have been done. Your suggestions were passed directly on to our Solicitor and staff. Attorney Treadwell said he looked at them, but he can't tell you what changes went in, if any, nor does he remember as he doesn't have them in front of him, why some of them may or may not have gone in. Mr. Johnson said Council did not directly read them? Mr. Kern said he did not read them. Mrs. Yerger said you got them as it was part of the EAC minutes. Mr. Johnson said the things he wrote up is attached to the EAC minutes. Mr. Horiszny said how long ago was this? Mrs. Yerger said a couple of months ago. Mr. Johnson said the discussion we had at the EAC

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meeting about the by-laws may be in the minutes, but the discussion we had at the table didn't include all the revisions he suggested. Mr. Kern said he would like to suggest no independent opinions come from EAC members and that they be incorporated into the structure of the EAC revisions; otherwise, staff will be getting fifteen different opinions instead of the one agreed on EAC recommendation. Mr. Maxfield said there was controversy about some of his suggestions at the EAC. He asked that we forward them for examination, and they would have been identified as Allan's recommendations for changes to the by-laws, not necessarily EAC recommendations. Mr. Cahalan said they were forwarded without a recommendation from the EAC to adopt them. Mr. Maxfield said yes. Mr. Johnson said they were forwarded without a recommendation to be adopted, but they were forwarded with the request that they be looked at by Council. They didn't get looked at by the Council, they got looked at by staff. Mr. Kern said that's what happened. Mr. Cahalan said from staff viewpoint, there's been discussion about these by-laws at previous meetings and there's been some controversy about them, so therefore, they reviewed them and they asked the Solicitor to look at them to put together a set of by-laws that would address all of the concerns from the EAC and Council's standpoint.

Mr. Kern said how did you submit your request that Council review your recommendations? Mr. Johnson said they talked about his revisions. He typed them up, and made a copy for everyone. At the meeting, they discussed his proposed revisions, but they didn't come to any kind of agreement on them, so it seemed we weren't really getting anywhere. The ideas were getting lost in the conversation, so he made the motion that they be forwarded for Council's review. The motion was seconded and passed. They were sent up the line for Council's review. Mr. Maxfield said he seconded that, and the idea was they just didn't want them to be lost. They were Allan's suggestions, and even though they didn't agree with a whole lot of them, they thought he had the right to be heard or examined and Mr. Johnson asked specifically for them to be sent to Council so the Council could read them, and that's what we voted on. Mr. Kern said he suggests we postpone the vote on this until we receive Allan's revisions. Mrs. Yerger said we can review them again, and this needs to be passed for the functionality for the EAC and need to be adopted now. If you want to review them, and take his minutes and redo it again after Attorney Treadwell's approval, but there are some things that need to be incorporated now. Mr. Kern said they can't be done in two weeks? Attorney Treadwell said he knows he saw Mr. Johnson's suggested revisions and if they are not in here, there's a reason. He just doesn't have the reason in front of him as he doesn't have the suggested revisions in front of him. He'll be happy to meet with Mr. Johnson and will be able to tell him why they aren't in here. He can come back to Council at the next meeting and tell you why they aren't in there. Mr. Maxfield said we haven't had workable by-laws for quite some time. Mrs. Yerger said she'll be happy to entertain additional corrections or amendments, but we need a set of by-laws to work under. Mr. Maxfield said we have a lot of new members in the last year or so that need these by-laws in place.

Mr. Johnson said the reason he made these revisions is because he felt the by-laws we had weren't very clear and easy to understand. He basically didn't change any of the concepts in these revisions, he only changed some of the paragraphs around to make things happen in a more logical order and then he reworded some of the sentences to make them more clear. He added all this business about associates versus members which is something that everybody agreed on. He really didn't change anything; he just made it clearer. There are two paragraphs he added that had to do with what would happen if an officer resigned in the middle of their term. If the Chairman resigned or something like that as it wasn't in here at all. The rest was things he moved around and tried to make it clearer. Mr. Horiszny said you didn't have a chance to look at the ones we have here tonight? Mr. Johnson said these look like the ones he revised, so the couple of changes they talked about aren't the ones he suggested. Mr. Maxfield said part of the problem we had at the EAC meeting was a lot of the language comes from the suggested by-laws by the state and the statute. That's legal language from the state that we don't want to mess with. Mr. Kern said if we vote affirmative on this tonight and we review Allan's suggestion and they are significant enough to make a change, what would the process be? Attorney Treadwell said change it and vote on it

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again. Mr. Kern said no big deal? Attorney Treadwell said no. Mr. Cahalan said he'd go back to what Mr. Kern said in the beginning that it should come from the EAC, with a vote recommending those changes. Mr. Kern said it should, but in this case, the EAC voted to send those changes to Council and Council didn't receive them. Mr. Maxfield said he thinks Mr. Johnson is asking Council to look at them to see if they have merit enough to be considered, and we owe him that. Mr. Kern said he agrees. Mr. Maxfield said it doesn't mean we can't amend it right now. Mr. Johnson said if Council passes these tonight and then looks at his revisions, and feels that they warrant changes, which will be fine.

- MOTION BY:** Mr. Horiszny moved that Council approve the by-laws as submitted and adjusted this evening and that we then get an opportunity to review the suggestions that Allan Johnson has submitted to us in the past regarding this subject.
- SECOND BY:** Mr. Maxfield
- Mr. Kern asked if there were any comments or questions? No one raised their hand.
- ROLL CALL:** 4-0 (Mrs. deLeon- Absent)

**VI. MISCELLAENEOUS BUSINESS ITEMS**

**A. APPROVAL OF AUGUST 18, 2010 MINUTES**

Mr. Kern said the minutes of the August 18, 2010 Council meeting have been prepared and are ready for Council's review and approval.

- MOTION BY:** Mr. Maxfield moved for approval of the August 18, 2010 minutes.
- SECOND BY:**
- MOTION BY:**

Mr. Horiszny said on page 1, in the box for Executive Session, change the word "prior to" to "since our" last meeting.

- MOTION BY:** Mr. Maxfield amended his previous motion and moved for approval of the August 18, 2010 minutes, with corrections.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if there were any comments or questions? No one raised their hand.
- ROLL CALL:** 3-0 (Mr. Horiszny – Abstained due to absence; Mrs. deLeon - Absent)

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

- Allan Gross, Black River Road, said he wants to address the Kipp situation, which is unbelievable as it's been going on for two years. He sent out an email to Mr. Maxfield who was kind enough to forward it to Council and staff. He thought it would be appropriate that he come in tonight and get it on the record as to what exactly happened and afford Council an opportunity to ask him any questions if they would like. As you may or may not know, without a doubt, Mr. Kipp is conducting an excavating business in a residential area and has been for two years. It is getting more frequent. There is more equipment parked there. There is more than six pieces of equipment parked there. This equipment goes out on a daily basis. Goes out in the morning and comes back in the evening. Then in many cases, the equipment is in and out other hours during the day as well. It's in everybody's face that this is what he is doing and that's not permitted in a residential area. What happened on Monday night has happened on many occasions, but not to the severity that it happened on Monday night. He has a three-quarter acre lot that he's conducting this business out of and parking these six pieces of equipment on. The track loader and backhoe, which goes out constantly on jobs, is transported on a commercial trailer. This three-quarter acre is so small, he cannot turn that around on that lot. What happens, you can guess where he turns it around – on Black River Road. On many occasions, loads the equipment on Black River Road which means

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traffic has to stop, traffic has to go around him at his own risk. What happened on Monday was a near accident and he means it was a matter of two feet or a car would have broadsided a pickup truck that came out of his equipment storage lot. This happened approximately 6:30 PM. He observed it personally and so did Mrs. Gabrick. She will be here at the September 15<sup>th</sup> Council meeting along with the rest of the neighbors. You can certainly ask her and she will go on the record as well. The reason we see this happening is because it's mostly diesel equipment and it's loud. We hear it inside our homes constantly. When we hear this equipment running and going in and out of this lot, we look out the window. Monday night about 6:30 PM, here's the noise again. He looks out his window and here comes a white car with another car right behind it on Black River Road. The pickup truck pulls out and they screech to a halt and they locked up the brakes. It came within two feet of broadsiding that pickup truck. The reason being, there is no sight line east on Black River Road. He wishes someone would go up there and observe that. You have engineers here, a Zoning Officer. You travel west on Black River Road and locate the position of a driver coming out of his equipment storage lot, and you have no sight line because Black River Road curves to the left, and that's what happened. Whoever was driving the pickup truck out of his lot, pulled out and never saw the car coming and the car never saw him. This is a serious situation and he knows the riparian issue is very important and he knows Council is pursuing that. He would highly recommend that we also pursue the issue of him operating a business in a residential area. There's a safety issue and one day there's going to be an accident, and somebody is going to get severely injured. We brought this up at numerous meetings with Council. This isn't the first time he's bringing this up about operating this business. God forbid if somebody sues this Township and they'll probably do that and they'll also sue him. They have a pretty good leg to stand on as this has been two years since this has been going on. It's just getting worse. The ordinance is supposed to protect the safety of citizens. That's one of the purposes and that's not being done. It's supposed to protect the character of the neighborhood. Our neighborhood, the character has been destroyed. He said this neighborhood has very high end homes and he's lived there for 30 years and some of his neighbors longer than that. What do you think that does to the value of their properties? They never discussed that part of it. You think if he goes to sell his home or his neighbors go to sell their home, that a potential buyer wouldn't say what's with the excavating equipment storage lot across the street. He'll guarantee there is a significant hit on their property values, and that's supposed to be protected by the zoning ordinances as well and it's not. This is a very serious issue and he highly recommends Council and the Township pursue both the riparian buffer and the issue of operating a business which is clearly not permitted in our R40 zone area. He'd also recommend you take a run up there. When he was subject to all of these violations the last time, he was made to remove the stones in the parking lot and plant grass. You should see what's left of the grass because he's going in and out. It was probably better with the stones there as far as runoff into the riparian buffer as now it's just dirt. That's how often equipment is going in and out of this lot. What took place last year was really useless, quite honestly. They got nowhere. He took the equipment out over winter and in spring he brought everything back and he's been operating all summer long. We got nowhere essentially and it's worse than it's ever been. Mr. Kern said aren't you supposed to have a driveway and a sight line distance? Mr. Cahalan said it's something we need to investigate and they can report back to Council. He understands Mr. Gross will be here on the 15<sup>th</sup>, so they can have the information then. Mrs. Yerger said she doesn't know the timeframe of this, but when they are loading this equipment, have you ever called the police just as a traffic violation as you can't load that kind of equipment on a public street. Mr. Gross said no, the neighbors have never called the police. Mrs. Yerger said it might do good to call the police. If you are talking in terms of preventing an accident until the rest of it comes back and we proceed with other things, hopefully, you might be able to convince that kind of equipment on the road. It might be worth a shot calling the police. Mr. Maxfield said what bothers him about that situation is an emergency loading on a street where someone is working on a piece of property is one thing, but daily usage on a public road as part of your business is something different. Mrs. Yerger said the police are familiar with the area and be conscious that it is a hazardous thing to do. Mr. Gross said nobody has an issue with somebody who is doing work on their property and they have to park equipment on the street, but it's a totally different issue when somebody is operating a business out

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of a residential area on a three-quarter acre lot where they can't even turn the equipment and come out on Black River Road to do so. Mrs. Yerger said it will be self-evident they are not working on that property. Mr. Gross said it's pretty evident to the usage if you look at the grass he's been made to plant last year. It's at least 75% gone. That accomplished nothing. Mr. Kern said the Manager will look into it. Mr. Cahalan said if it's a motor vehicle violation, they will have the police handle it. If it's a zoning violation, we will have the Zoning Officer handle it and will report back to Council. Mr. Gross said all the neighbors will be here on the 15<sup>th</sup> as he understands that's when the vote will be on the riparian buffer revisions.

**VIII. COUNCIL AND STAFF REPORTS**

**A. TOWNSHIP MANAGER**

- Mr. Cahalan said we generally have a recycling event in the fall and the spring. It's electronics recycling drop-off event. Due to concerns that the EAC had with the disposition of the electronic waste that was being dropped off at the Township, they are looking into securing another alternate vendor to handle future electronics recycling events. At this point, they haven't secured an alternate vendor, so there will not be a fall recycling electronics event in the Township. The EAC is looking forward to scheduling an event in the springtime. There are E-cycling events that Northampton County sponsors and one of them is Saturday, October 2, and that's in Nazareth, PA. There is also a household hazardous waste drop-off event, which the County is sponsoring on October 9 and that is also on our website. Mrs. Yerger asked that Laura Ray be given this information so she can put it on the EAC website. She also said Karen Dancho was trying to get a hold of one of the alternatives, and they did not get back to her as of yet. The EAC did try to secure an alternate vendor and was not successful in enough time to do it in October. We will work hard on it and try to come up with something for the spring.
- Mr. Cahalan said we received a request from the LVPC that they are asking municipalities once again if we are interested in assistance from them in access management. Access management is where they would look at the number of conflict points along a roadway and come up with recommendations for the control of spacing, design and operation of driveways, median openings, and street connections to a roadway. Back in 2005, Council did express an interest in securing this assistance, but due to lack of funding, we were not selected, so he wanted to know if Council is interested again in expressing interest in participating in this program with the LVPC. It's a free program. Mr. Maxfield said is this specific instances or just in general. Mr. Cahalan said in general. Mr. Maxfield said it's just information gathering by the Township. Mr. Cahalan said yes. Mr. Maxfield said sure. Mr. Cahalan said he will draft a letter of interest to the LVPC.

**MOTION BY:** Mr. Maxfield moved to have Mr. Cahalan draft a letter of interest to the LVPC as stated above.  
**SECOND BY:** Mrs. Yerger  
**ROLL CALL:** 4-0 (Mrs. deLeon – Absent)

- Mr. Cahalan said in your packet, Jim Birdsall drafted some notes from the meeting we had out at the Meadows Road Bridge this past Monday with the County Executive, John Stoffa. He brought the County Engineer and the Bridge Superintendent and their consulting engineer. Ron Horiszny was there along with Stephanie Brown and Ted Beardsley joined us later. It was a good meeting and we established some things that are covered in Jim's summary of the meeting. The biggest thing we established for everyone was that the County has no plans or funding to demolish or build a new bridge. There's absolutely no actions being taken on the County's part to demolish the bridge and put up another bridge in its place. They are focusing their efforts on preventative maintenance. They are doing a good job with a limited budget trying to keep the stones pointed and the surface in good shape. We also established that the methods they are using for the preventive maintenance are not harming the bridge. They did say that the weight limit was lowered recently to

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seven tons and they did say that reduction in the weight limit and our action to put the stop signs up is helping to preserve the bridge. We feel they are doing their best and there is no action on their part to demolish the bridge, so everybody was on the same page at the meeting. One of the things discussed was the Meadows Road traffic analysis that was done by HEA some time ago, and they will be bringing back some of those recommendations from that report for your consideration.

- Mr. Cahalan said there's a draft letter in your red packet he put together about Applebutter Road Village proposal. They did get a courtesy copy of plans from the developer. Council did have an opportunity to review those plans. The Landfill Consultants reviewed them at the staff meeting and there were comments and he put them in a draft. If you are okay with that, he will finalize that and send it to the City of Bethlehem. You already directed the letter to go, he just wanted you to be satisfied with the content. Mr. Lenny Szy asked Council if he could get a copy of that letter? He does know a lot about that house and the property. His father and grandfather lived there for over 35 years. If there are any questions, he does know quite a bit about it. Mr. Kern said he would be able to get a copy of the letter. Mr. Maxfield asked if he was aware of what the current condition of the house was. Mr. Szy said it's very nice inside and there are no structural problems. Mr. Maxfield said they want to put a road right through the middle of it. Mr. Cahalan said the information he got was from the architectural survey that was done by Conectiv and it contained information about that house. It was the Samuel Rinker House built between 1820 and 1840. Mr. Szy said the information he has is about 30 years earlier than that. There's old cellar, old smokehouse in there. There were three additions on the house and the farm almost went over to the Coke Works. Mr. Cahalan said he will make sure Mr. Szy gets a copy of the letter.

**B. COUNCIL**

**Mr. Maxfield**

- He said he wanted to wish Mr. Horiszny a Happy Birthday.

**Mrs. Yerger** – No report

**Mr. Horiszny**

- He said as Mr. Cahalan mentioned he did attend the bridge meeting.
- He has a request from Habitat for Humanity for the use of recycling bins for an upcoming blitz and then he will return them. He will need about six to eight bins and will use them from September 28 to October 9, 2010. Mr. Cahalan said those are bins purchased for Township residents. Is this for a project in the Township? Mr. Horiszny said no. Mrs. Yerger said can you get them from IESI and you can keep them. Mr. Horiszny said good point; he will get in touch with them.

**Mr. Kern**

- He said based on tonight's meeting and this ream of paper Council received, he believes Council has a policy that we require an applicant to submit x number of copies to satisfy some requirement and he's wondering if that should be revisited and allow digital media so Council could get a disk. Mr. Horiszny said he agrees. Mrs. Yerger said have them all hand out a disk. Mr. Maxfield said that we would have to remove the disk we are all working with. How about putting it up on the screen. Mr. Kern said they leave for us to take with us and they'd be willing to do a disk for us to take with them.

**Mrs. deLeon** – Absent

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- D. **SOLICITOR** – No report
- E. **ENGINEER** – No report
- F. **PLANNER** – No report

**Council recessed for an Executive Session to discuss potential property acquisition.  
The time was 9:40 PM  
Council reconvened. The time was 10:01 PM**

Mr. Kern said as a result of our Executive Session, there is a motion

**MOTION BY:** Mr. Maxfield moved to pay USTIF the amount of \$2,934.87 in exchange for an acknowledgement from USTIF that it accepts this amount as payment in full for Township's "gallon fee" for the applicable period.

**SECOND BY:** Mr. Horiszny

**ROLL CALL:** 4-0 (Mrs. deLeon – Absent)

**IX. ADJOURNMENT**

**MOTION BY:** Mrs. Yerger moved for adjournment. The time was 10:02 PM.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 4-0 (Mrs. deLeon – Absent)

Submitted by:

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Jack Cahalan  
Township Manager

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Glenn Kern  
President of Council