

I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, October 7, 2009 at 7:07 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

ROLL CALL: Present – Glenn Kern, President; Tom Maxfield, Vice President; Sandra Yerger and Ron Horiszny, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Township Manager; Judy Stern Goldstein, Township Planner; Linc Treadwell, Township Engineer, Brien Kocher; Township Solicitor and Jr. Council Member, Kimberly Kelly. Absent: Priscilla deLeon, Council member.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

<p>Mr. Kern said the Sunshine Law enables Council to meet regarding certain issues and certain issues only in Executive Session which Council did just prior to this meeting. One issue that Council can meet in private is involving any litigation, and that was one of the issues Council discussed regarding claims relative to an underground storage tank spill in the back. The other item we are permitted to speak in private is anything in regard to property acquisition or real estate. For obvious reasons, it's difficult to negotiate with someone if you publicly tell them what the price is that you want to buy the property for. We did meet in Executive Session to discuss potential property acquisition just prior to this meeting.</p>

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

Mr. Kern said for citizen agenda items – Council operates under Robert's Rules. What that means is during agenda items, Council will talk amongst themselves and amongst staff and the interested parties. At the conclusion of that, we open it up to the public for public comment. There is an opportunity for non-agenda items at the end of the meeting to discuss whatever your business might be. We do have a microphone and there are microphones up at the table. There is a sign-in sheet in the back of the room. Please print your name and address and email address. It is very helpful in transcribing the minutes. For those who want to receive emailed agendas, please give your email address to Leslie or Jack or call the Township office. Please state your name and address. If you can't hear, please let us know. You can check the minutes on the website, which is www.lowersaucontownship.org.

III. PRESENTATIONS/HEARINGS

A. SWEARING IN OF SGT. THOMAS BARNDT

Mr. Kern said Lower Saucon Township Police Corporal Thomas Barndt has been promoted to Sergeant and is here tonight to be sworn-in to his new rank and position.

Police Chief Guy Lesser said thanks again for taking the time to perform this loyalty oath. Way back in July 1989, Lower Saucon hired Thomas Barndt. We hired him as a dispatcher in our communications center back then. In January of 1990, he was appointed to the position of part time Police Officer and in December of that year promoted to full time Police Officer. In December 2007, he was promoted to our Corporal position. During that time, Tom served many roles in our department, and as you heard at other Council meetings, he's received a number of our Officer-of-the-Year awards and a number of DUI Enforcement awards. He's also served as a Field Training Officer, as a Firearms Instructor, and as a Criminal Identification Officer. Prior to being

Corporal, he served as being a Team Leader on one of our Patrol teams. Tonight we will officially, from the standpoint of a Loyalty Oath, swear him in as our only Police Sergeant. We have no doubt that Tom will continue to serve in a tremendously exemplary role for our young officers and really fill the role as a Field Training Officer and that over the years it's been exciting to, at least from the Chief's standpoint, and he would hope from others, to see the transformation of our department and the improvement of our department personnel. Tom has played a very significant role in that. It's exciting tonight for me to see him sworn in to the position of Sergeant.

Chief Lesser said Tom's wife Tracey could not be here tonight to pin his badge on, as she is working. Diane Palik, Notary Public swore Thomas Barndt in.

Glenn Kern said over the years, he's had the privilege of witnessing Sgt. Barndt in action and he has been the professional that we would expect a Police Officer to be and as Chief said, he's a shining example of what our police force is. Thanks, Tom.

B. RESOLUTION #70-2009 – RECOGNIZING JUSTIN DELADE FOR HIS WORK TO CREATE EDUCATIONAL SIGNAGE AT POLK VALLEY PARK

Mr. Kern said Resolution #70-2009 has been prepared recognizing Justin DeLade for his work to enhance Polk Valley Park with educational signs.

A RESOLUTION COMMENDING JUSTIN DeLADE FOR HIS EAGLE SCOUT PROJECT AT POLK VALLEY PARK

WHEREAS, Justin DeLade, a senior at Saucon Valley High School, has been a member of the Boy Scout Troop #319 since 2003 where he has served as Assistant Patrol Leader and Quartermaster and earned numerous merit badges; and

WHEREAS, Justin chose to work on constructing educational signage at Polk Valley Park for his Eagle Scout project; and

WHEREAS, Justin worked on identifying and researching the flora and fauna that is native to the park with the assistance of Bill Sweeney from the Pennsylvania Department of Conservation and Natural Resources (DCNR); and

WHEREAS, from his research Justin produced educational material for five (5) signs that visitors will find mounted along the trails in Polk Valley which will assist them in identifying and providing information about the plants, animals and natural areas that can be found in the park.

NOW, THEREFORE, BE IT RESOLVED, that the Council of Lower Saucon Township, Glenn Kern, President; Thomas Maxfield, Vice President; Priscilla deLeon, Council Member; Sandra Yerger, Council Member; and Ronald Horiszny, Council Member; wishes to commend Justin DeLade for the completion of his Eagle Scout project for Polk Valley Park.

MOTION BY: Mr. Horiszny moved for approval of Resolution #70-2009.

SECOND BY: Mrs. Yerger

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

ROLL CALL: 4-0 (Mrs. deLeon – Absent)

C. RESOLUTION #71-2009 – PUBLIC HEARING – AUTHORIZING PURCHASE OF CONSERVATION EASEMENT ON VANSCAVISH PROPERTY

Mr. Kern said Resolution #71-2009 has been prepared to purchase a conservation easement on the property of Rodney Vanscavish located at 2629 Martins Lane.

**General Business Meeting
October 7, 2009**

MOTION BY: Mrs. Yerger opened the public hearing.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

Attorney Treadwell said the Open Space Acquisition Act requires that the Township hold this public hearing prior to acquiring any interest in property for open space preservation. As Mr. Kern said, the Township is considering purchasing a conservation easement on approximately sixteen acres of Mr. Vanscavish's property and the purpose tonight is to ask anyone here, any members of the public, if they have any comments on this proposed purchase. Does anyone have any comments? No one raised their hand.

MOTION BY: Mr. Horiszny moved to close the public hearing.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

**A RESOLUTION OF THE COUNCIL OF LOWER SAUCON TOWNSHIP
AUTHORIZING THE PURCHASE OF A CONSERVATION EASEMENT FOR A
PORTION OF NORTHAMPTON COUNTY TAX MAP PARCEL Q8-11-14**

WHEREAS, the Township Council of Lower Saucon Township recognizes that the Township contains open space, natural and historic areas, agricultural lands and other culturally important areas that contribute to the quality of life and economic health of our community which are worthy of preservation and protection; and

WHEREAS, the Township prepared and adopted an Open Space Action Plan on April 4, 2007; and

WHEREAS, the Second Class Township Code, 53 P.S. 66503, and the Open Space Lands Acquisition and Preservation Act, 32 P.S. 5001 et.seq. permit Lower Saucon Township to acquire interests in real estate; and

WHEREAS, the Open Space Sub-Committee of the Environmental Advisory Council, in accordance with the Open Space Plan, has recommended that the Township purchase a conservation easement from Rodney Vanscavish totaling 16+/- acres; and

WHEREAS, this Resolution is intended to carry out the foregoing described purpose and to provide authorization for the execution of the documents necessary to acquire the Easement.

NOW, THEREFORE, BE IT RESOLVED by the Lower Saucon Township Council as follows:

1. Lower Saucon Township shall acquire a conservation easement for a portion of the property known as Northampton County Uniform Parcel Identifier Tax Parcel No. Q8-11-14 as more fully identified in the Plan attached hereto as Exhibit "A".
2. The proper Township officers and/or agents, including the Township Solicitor and Township Manager, are hereby authorized to prepare such documents and instruments as may be necessary for the acquisition of a Conservation Easement across that portion of Tax Map Parcel No. Q8-11-14 and to do all other things necessary to acquire said Easement for a price of \$100,000.00.

MOTION BY: Mr. Maxfield moved for approval of Resolution #71-2009.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

Attorney Treadwell said for purposes of the public, Resolution #71-2009, authorizes the acquisition of that sixteen acres for \$100,000 and authorizes the Manager and Township Solicitor to take the necessary actions to acquire that easement.

IV. **DEVELOPER ITEMS**

A. **ZONING HEARING BOARD VARIANCES**

1. **LYNN WIRTH – 1859 VIOLA LANE – REQUEST VARIANCE FOR REAR YARD SETBACK TO CONSTRUCT A PATIO**

Mr. Kern said the applicant is requesting relief of approximately 14' from the minimum rear yard setback of 40' to construct a patio.

Ms. Lynn Wirth was present. She said she would like to add a stamped concrete patio to the back of her home. She is requesting a variance to the setback and asking for permission.

Mr. Maxfield asked if there were any circumstances that she is aware of that are causing her to seek this variance. Is there any way to design the patio that it would fit within the parameters of the Township? Ms. Wirth said it would only allow it for 15 feet back. She'd like to put a little bit of a planting in-between, so that's why she's asking for the variance to extend it back a little. Mr. Horiszny asked if there was a house behind her? Ms. Wirth said there is. Mr. Horiszny said have the neighbors been notified? Mr. Garges said yes. Mr. Kern said it's within the impervious coverage requirement? Mr. Garges said yes.

Mr. Kern asked if anyone in the audience had any comment. No one raised their hand. Council took no action.

2. **MICHAEL & ANNETTE DURNACK – 2052 QUAIL CT. – REQUEST VARIANCE OF IMPERVIOUS COVERAGE TO CONSTRUCT A PAVER PATIO AND SERVICE WALKWAY**

Mr. Kern said the applicant is requesting 2.3% of relief from the maximum allowable impervious coverage of 25%.

Mike Durnack was present. He said they installed a pool with a minimal amount of coverage of concrete. They stayed within the total impervious coverage. What they ran into was they couldn't put the pool next to the house. They had to offset the pool a little bit of a distance. What he's requesting with the variance is to create a service walkway to come from the driveway to go around the back to the pool area, as there's going to be a gate, and then also a small buffer area between his house and the pool. He has some pictures to show Council what it looks like.

Mr. Maxfield said when you said offset the pool, what exactly do you mean? Was there a problem with siting it near the house? Mr. Durnack said not necessarily a problem to site it near the house. Because they didn't have a lot of concrete coverage, and because of what was left for the impervious coverage, there really wasn't a lot left for us to use for concrete to give us a distance between the pool and the house. To give it some space so we're not walking out the door and falling into it, we moved it within the variance of the setback away from the rear of the property. We stayed within that. We have the little buffer zone in between that. We are just looking to add a little space so it's just not dirt or ground and then to add the service walkway. It amounted to that 2.3%. Mr. Maxfield said that

includes what you called the service walkway? Mr. Durnack said yes. He said he is aware of the impervious coverage rules and why. He's willing to create drainage and swales to make sure water goes to swales so there is no runoff and collection. We recognize the water issue and why the rules are in place. We are going to do anything we need to. He's an engineer by trade. He's not asking for a basketball court, just something of a moderate amount to give him a place to utilize that area without making it a mess. Mrs. Yerger said would you consider porous pavers? Mr. Durnack said yes. Mr. Maxfield said that might be the only way we'd go with this variance. Mr. Durnack said he's researched it and even has some municipal data sheets for it. He recognizes that this does things with water just like the ground does. It's a more costly system, but it will definitely help. He would totally do this.

Mr. Maxfield said with the condition that the applicant stated he would use pervious materials to construct the proposed changes, Council would take no action. Mr. Durnack said they would use the pervious system as he already went over it with the landscaper. Mr. Maxfield said you are aware that pervious materials need extra care? Mr. Durnack said yes, you have to keep the openings in between them open so they don't clog up so it allows for the drainage. Mr. Maxfield said maybe we could ask that a maintenance plan be shown on how you are going to address that? Mr. Durnack said sure. Mr. Garges said for clarity sake, maybe we could have Mr. Durnack submit his proposed pavers so that our Engineer could review it and then we could inspect it while it's being installed just to make sure the system he is proposing is being installed correctly. Mr. Horiszny said if everything is put in pervious, are they not going to be over the 25%? Mr. Garges said by zoning definition, they will still be over. He's just proposing an offset as a form of relief from the zoning ordinance. He will still need a variance, but he's proposing a different circumstance. Mr. Maxfield said they appreciate his exploring the pervious material. How would we word what Chris said.

Attorney Treadwell said it's just what Mr. Maxfield said with the extra provision that the applicant submit his proposed construction materials to the Township Engineer for review and inspection.

MOTION BY: Mr. Maxfield moved that Mr. Durnack submit his proposed paver material to the Township Engineer so that our Engineer could review it and then we could inspect it while it's being installed just to make sure the system he is proposing is being installed correctly.

SECOND BY: Mrs. Yerger

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

ROLL CALL: 4-0 (Mrs. deLeon – Absent)

3. **ISS FISERV & CO. & ANDREW WARNER – 2472 BLACK RIVER ROAD – VARIANCE FOR DISTURBANCE OF FLOOD PLAIN, FLOOD PLAIN SOILS AND RIPARIAN BUFFER TO CONSTRUCT A DRIVEWAY ACCESS TO THE SITE**

Mr. Kern said the applicant is requesting zoning relief to create an access within the riparian corridor. The applicant also needs an interpretation from Section 180-98/B(2)b regarding storm culvert pipes being prohibited within the right of way.

Mr. Andrew Warner was present. He said he wants to put a driveway into this lot and it happens to be right across the street from the Black River, right where the VNA Hospice is, right across the street. It's a vacant lot and has been that way for a long time. He goes on to it now, but he has to drive through a little culvert and he doesn't want to do that anymore. He just wants to put a driveway there, so he's going through the proper steps to do that.

Mr. Maxfield said it will just be a driveway to no where? Mr. Warner said correct. Mr. Kern said are there DEP requirements to do this? Mr. Warner said they already have the highway occupancy permit from PennDOT. Attorney Treadwell said it's not actually a stream crossing, he's just going across floodplain soil so there's no DEP permit like you'd have with a stream. Mr. Warner said there is a little culvert there for water runoff, but he's owned the property since 2006, and only in a significant storm, do you see a little bit of water in there, so it's not a big water issue by any means on the storm culvert. They will put a pipe in to make sure it continues to flow as it needs to flow as it's been set up already. Mr. Maxfield said all standards and specifics will be PennDOT as it's their right-of-way? Mr. Warner said correct. Attorney Treadwell said there's not a current proposed use for the property right now, it's just a driveway? Mr. Warner said that's exactly right. Attorney Treadwell said it will come before you as it's a conditional use to cross the riparian corridor as well. That's the zoning part.

Mr. Garges said what Mr. Warner is here for tonight is the first step which is the zoning variance from disturbance of floodplain soils and also the interpretation for the driveway. There's a site plan that was also submitted that will go to the Planning Commission at their meeting next week. That site plan is part of the conditional use which will then come before Council for a conditional use hearing and approval. It's all outlined in the zoning ordinance, but he's here for the first step. You will see it again, but basically there are a number of different things going on because of the distance from the Black River, although he's on the other side of the street from the stream. Mrs. Yerger said in the information we have from Mr. Garges, that says "Chapter 90 of the Floodplain Management Ordinance, however the board may wish to condition any approval or relief granted upon a favorable review from the Township Engineer and approval from the Northampton County Conservation District", is that a given? Mr. Garges said the Township Engineer is reviewing it as part of the site plan, so that's already covering it and one of the things that the Township Engineer will comment on is the requirement, if there is one, for the Conservation District to have the plan reviewed and approved. Some of the floodplain issues we get into when we have floodplain constructions, you are required to go to the Conservation District and the DEP and obtain approval.

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

4. EDWARD & DOLORES HILL – 2021 SCENIC VIEW LANE – REQUEST VARIANCE

Mr. Kern said the applicant is seeking a variance to construct an additional 4 dwelling units in one new building.

Attorney Joe Piperato and Doug Hunsicker from Keystone Engineering were present. Attorney Treadwell said he doesn't know if Council has even seen the proposal before. Why don't you briefly explain what the development proposal is before you get into the required zoning relief?

Attorney Piperato said the Hills are currently the owners of a garden apartment complex which consists of forty-nine units currently. Forty-eight of them are contained in multi-unit buildings and then there is also a single family dwelling. The property is actually split between counties and townships. There is a portion that is located in Lower Saucon Township (LST) and a portion located in Springfield Township. The portion in LST currently is twenty-one units of a single family dwelling. There are five buildings of four units located in LST. The property originally was located in the rural agricultural district at a time when it permitted multiple family dwellings and is now located in the R40 district

which does not permit it. Therefore, the Hills are seeking to construct one additional four unit building at a location they have selected which is on the plan. The zoning ordinance permits a lawful pre-existing non-conforming use to be expanded up to 25%. He doesn't think there is any dispute that it is lawful and pre-existing or non-conforming for that matter. They are going to the Zoning Hearing Board (ZHB) as a result of the necessity of a special exception, and in addition to that, they are asking for a couple of interpretations as to the application of site capacity calculations and that type of thing. If those interpretations are not granted or at least decided in favor of the Hills, then there will be four to five variances that will be necessary. A couple of the variances are such as a traffic report, two foot contours depicted on the plan. They aren't significant as to what the planning issues would be. The other two would involve the site capacity calculations as well as some impervious coverage calculations. That's why they will be before the ZHB on the 19th.

Mr. Kern said what is your purpose here tonight? Attorney Piperato said the LST ordinance requires anybody seeking a special exception or other relief before the ZHB appear before you and explain our procedure. We've been before the PC. We have the plan in a position to simply go to the ZHB. Subsequent to that, if the applicant is not successful, the plan will go no further. If the applicant is successful, the plan will then go back to the PC for all the site plan requirements and ultimately make its way into Council for its approval or disapproval at that time. We are simply here to suggest to you that we have completed to the necessary degree with your site plan requirements to simply get to the ZHB to request our relief. Then once they make their determination, that will determine where we go from there.

Mr. Horiszny said it mentions that there are conditions both from HEA and Boucher & James regarding septic system and water. Attorney Piperato said it was talked about at the PC meeting and HEA, who was at there that evening, took the position that the items that were identified on their review letter were items for the land development process, and that they would be able to address those items, if and when they ever got through the zoning procedure.

Mr. Hunsicker said the existing property is served by a DEP approved public water supply system. They did furnish the information relative to the system to the PC. They have several on lot sewer systems. They have done testing, which was witnessed by the Township SEO for a system for the new facility. They've done the design of the new facility, but have not taken it to the permit stage until they actually get the special exception and then proceed with the land development. They have identified the site and also done the design of a site for the sewage treatment for this particular facility. The design information is shown on the plan. Attorney Treadwell said it's not a public water system. It's a water system with a well that serves just these units. From the perspective of someone who's not necessarily familiar with DEP, it's not public water that flows through a pipe. It's a well. Mr. Horiszny said their approval states it will handle the additional volume. Mr. Hunsicker said the capacity is way more that is necessary for the additional units. By public water system, they mean they are under the requirements of DEP to meet the testing requirements and have an operator for the system and meet all the public health requirements of DEP relative to a water system. Attorney Treadwell said understood. He was just trying to point out there may be a difference for people on this Council or in the audience to what public means to the normal person to what it may mean to DEP. Attorney Piperato said there is a monitoring company that has to comply with all the requirements of DEP, make the normal submissions, inspections, etc.

Mr. Kern said what were the issues regarding the site capacity calculations? Ms. Stern Goldstein said the site capacity calculations have not quite been completed yet and there

are issues with the impervious surface calculation and the applicant's assertion that the interpretation by the ZHB they may not apply at all. There are issues that he needs to go to the ZHB to address. The issues in our letter all pertain to site plan requirements and the zoning ordinance issues dealing with the site plan requirements, anything they have not complied with, they asked for relief from the ZHB, with the exception of a few cleanup items that the applicant's engineer has agreed to deal with and comply with, however, he hasn't had the opportunity to do so yet. He said if he gets through tonight, he would submit plans between now and the ZHB meeting. That sums it all up.

Mr. Maxfield said the impervious you mentioned, it almost sounds like it's an impossible impervious problem or interpretation. At this point, the applicant may have to come back for additional variances. Ms. Stern Goldstein said the way they worded their supplemental request was that they are asking for an interpretation. In the event the interpretation is not favorable to them, they are asking for the relief in the form of a variance. Attorney Piperato said that is correct. They are asking for alternative relief which the Municipalities Planning Code permits an applicant to do. They are requesting an interpretation that the provision of the ordinance is not applicable to this development because it is a lawful pre-existing non-conforming use, and at that point in time, if the ZHB disagrees with that interpretation, they will be requesting a variance for certain reasons that he will have to demonstrate a hardship before the board at that time. Mr. Kern said that's something for the ZHB, not really us. Attorney Piperato said not really. Attorney Treadwell said this is in front of you just like the previous three applicants to decide if you want to take one of the three positions, support, take no action or oppose. He thinks what Ms. Goldstein has just said is that the impervious coverage issue is one that the applicant is asserting to the ZHB that because of the 25% expansion that is discussed in the Township's zoning ordinance that if you get a special exception, you are allowed to expand the use by 25%. The applicant's interpretation of that is it also gives them 25% impervious coverage expansion. Attorney Piperato said the point is if you can increase the use up to 25% and that use converts into four additional units and a building, their impervious coverage will be limited to what is necessary to build the building and to service it by whatever driveway, parking, etc. is required. We are not necessarily saying we want to expand impervious coverage all the way up to 25% of what we currently have. We are simply saying that we want to expand the use which the ordinance permits you to do by 25%. That means we can build four units in one building. We are going to calculate what the impervious coverage is going to be for that building and any parking areas or driveways that would service that building. He's not necessarily trying to maximize the 25%; he just wants to be able to comply with the ordinance in terms of a 25% expansion of the use. The use is the multifamily dwelling use. We believe it will permit five units and we're looking for four units in one building.

Mr. Maxfield said per our current ordinance, the impervious percentage is already over the allowable based on resources. Ms. Stern Goldstein said she believes that is correct. They are still waiting for the completion of the site capacity calculations. All indications are that under current regulations today, that they exceed the permitted impervious surface. Attorney Piperato said it was in compliance at the time it was constructed but because the ordinance was changed thereafter it is not in compliance now.

Mr. Maxfield said he would remind the rest of Council that just last meeting we sat through a whole lot of explanation on stormwater issues in Leithsville, and a description that a lot of that comes from uphill and that is basically on the entire hillside. We need to think about this impervious issue as a Council. If we are already over our current ordinance, it's obviously legal now. In a way, it's a non-existing or an existing non-conformity and do we want to expand the existing non-conformity. Would that be a fair way to characterize it? Ms. Stern Goldstein said the impervious is an existing non-conformity. Mr. Maxfield said there are statements in their ordinance about not wanting to expand existing non-

conformities. Mr. Horiszny said he agrees. We need to know what those figures are. Attorney Piperato said may he give them to you? The current impervious coverage, if the calculations are correct, is 1.72 acres. The proposal will add .16 and therefore that would result in 1.88, so you have that information in front of you. Mr. Maxfield said this isn't the only case. It really amazes him when we get this far through an application and the site capacity calculations are not done. That should be one of the first things that are done with any application. That being said, the impervious still bothers him.

Mrs. Yerger said there was a recommendation from the EAC last night when the EAC reviewed this plan. The following action was taken by the EAC on the October 6, 2009 meeting regarding Scenic View Apartments: A motion was made by Laura Ray and a second by Allan Johnson to make a recommendation to Council to be not supportive of the plan because of the impervious coverage issue and that on lot sewer is required. The EAC would recommend that Council oppose this application to the ZHB. The motion carried 6-0. There was definitely concern about the impervious coverage as well. One of the other issues we discussed is that this is headwater area of the Cooks Creek and also of the existing water issues that do exist in Leithsville as far as stormwater problems.

Attorney Piperato said he'd like to read something into the record. The following action was taken by the PC at the September 17, 2009 meeting regarding the Scenic View Apartments site plan: "The motion was made by John Lychak, seconded by Craig Kologie, to recommend that the site plan move forward to the Township Council and the ZHB subject to the following conditions: 1. The applicant shall comply with the comments set forth in the Boucher & James letter dated September 9, 2009. 2. The applicant shall comply with the comments set forth in the HEA letter dated September 9, 2009. Motion carried 3-0-1 with John Noble, Haz Hijazi, Tom Maxfield abstaining." If the EAC letter was written into the record, he wanted to make sure the PC action also be read into the record as well.

Mr. Kern said what would your response be by permitting this expansion, you are actually increasing the already over impervious coverage on that lot? Attorney Piperato said he believes they can adequately address those concerns. He believes Mr. Hunsicker in preparing the plan and having the municipal engineers review it, can adequately address any stormwater concerns it may have. This is not an overburdening of the land, as you would probably get in many requests. There's a reason why pre-existing non-conforming uses are permitted to expand to a limited extent. In this case, we believe that can be done and it can be done responsibly, professionally, and can address the concerns that the PC and the Council may have or that may be raised by both of the municipal consultants. This is what is always difficult in non-conforming uses. It complied with the ordinances when it was built. It complied with whatever the impervious coverage limits were at that time, and then the law permits you to expand up to 25%, but then it wants to take it away by saying you don't comply with impervious coverage, you don't comply with site capacity calculations. He's not making his argument here that he would ultimately make in front of the ZHB. He would just answer the question by saying that Mr. Hunsicker has assured him and indicated to him that he can adequately address the concerns that may arise from any additional impervious coverage and we would look at that very carefully and make sure it satisfies whatever concerns the PC would have, that the Council would have and your professionals would have. Mr. Kern said there's no documentation available at this point to prove that. Mr. Maxfield said it puts us in a difficult situation now because so far our own consultants and staff have not been satisfied to those conditions. We have numbers of residents complaining about the flood conditions in Leithsville with the statements from our Engineers that the hillside is drained down into that area. He is upset that the site capacity calculations have not been done yet. That's a basic thing and we can only react and protect our residents to the best of our ability with the conditions that exist now and

we've instituted the impervious coverage provision in the ordinance for a reason. He doesn't know how we can let this one go without that information. It's really tough for us to say we trust it's going to happen as it may not. If our engineers and planners gave us that recommendation, we might go there, but he doesn't hear that.

Mr. Hunsicker said from the PC meeting, they were asked to provide calculations of the allowable maximum disturbance for the various natural resources which they did do in a letter dated September 24, 2009. Subsequent to that, and he was just able to have a conversation yesterday, there were a few refinements to the calculations which actually the major refinement is that we should deduct from our steep slope natural resource, the area that is existing in pavement and building area since they are not natural resources. How will that affect that calculation, it will be to actually increase the amount of allowable impervious on the site to what they had previously calculated. It's a relatively simple calculation and will be done within the next several days and he will review and get it to Boucher & James for their review. In addition to that, there was some discussion relative to better identifying the woodland area and the riparian buffer area on the site which again, we can do. The riparian buffer is within the woodland and will not affect the calculation at all since they are both 85% protection areas. There are really minor refinements. They really would like to have these refinements done and they will do them and get them to them. They really don't affect the total project or what is really being proposed, which is providing one more four unit building.

Attorney Piperato said in terms of the site capacity calculations, they really have been done in a way, but there is no way to comply with it if the Township applies the 40,000 square foot requirement for single family dwelling, which has been the position of Boucher & James on 5.5 acres, the site capacity calculation comes out to 5. We already have 21, and it's our position is that it doesn't apply and if it does apply, you use the seven units per acre which is permitted for a multi-family dwelling. Part of the reason why you don't have some of the information before you is that there is a disagreement as to the applicability of that or by what standards you use to make that. They've done the calculations and know their net buildable area. They know what that is, but if you apply 40,000 square feet to it for a single family dwelling, for this project, you get five units in LST. We already have 21 units. If you use the seven acres per unit which is the permissible number, we are able to do 36 units, but we are only proposing to go to 25. He just wanted you to understand that is why some of the information may not be readily available because there is a disagreement to the application of it and that's the ZHB's job to make that interpretation.

Mr. Maxfield said if there is really a disagreement, he would like to hear what Ms. Stern Goldstein has to say about it also. Ms. Stern Goldstein said the disagreement on the calculation which was just referenced is she is citing what the ordinance says today and they are citing what their position is. The other part on the site capacity calculations that has not been completed to date in a form that they can check or verify is the part that gets to the net buildable site area on which you calculate the impervious. That has not yet been completed. Their engineer is working toward that. The last plan that was submitted to Boucher & James was lacking information and was plotted at a scale that was not correct, which lead to great confusion and they couldn't verify anything. There were discussions from the applicants engineer and Kevin from Boucher & James yesterday, but they don't yet have that information to verify and that portion is important as it gets to the net buildable site area from which impervious is calculated. Those issues are still open, but it still comes down to the overall issue.

Attorney Treadwell said he'd like to make a suggestion. What he's hearing from Council is there's a lot of concern about impervious coverage and what effects additional impervious coverage may have on this property and the area in general. Would it make

sense, and this project has been around for a while, if the applicant when they redo those numbers, can come back with a number showing the increase in impervious coverage that everybody can agree this is the number, and then some sort of “attack plan” of how the applicant proposes to address the stormwater that comes from that additional coverage so that it does not negatively affect this property, other properties, or the area. Would that give Council more information with which to make a decision relative to the ZHB application? It would obviously entail the applicant agreeing to postpone their ZHB appearance that is scheduled for the 19th? Would that give Council the information you may need? Mr. Kern said right now they have nothing to go on. Mr. Maxfield said the problem is it basically sums up to a statement of don’t worry, it’s going to be okay. He would urge you to follow Attorney Treadwell’s advice and present the calculations. Attorney Piperato said they don’t have those calculations tonight. Unfortunately, what happens is the applicant ends up doing a land development plan before they even have zoning approval. He thinks it’s an excellent suggestion. He will strongly recommend it to Mr. & Mrs. Hill. He thinks they will agree to that. They want to go forward, not necessarily with your blessing, but that you are going to feel comfortable with the presentation they are going to make before the ZHB. He would hope that his clients would go along with that suggestion.

Mr. Kern said he needs to hear from the staff that they are comfortable with the impervious issue, and if we don’t hear that, you are going to be doing a lot of work for nothing. Attorney Piperato said he understands what is at risk and what you need. Mrs. Yerger said do we need to oppose? Attorney Treadwell said at the moment the ZHB is scheduled for October 19. What Attorneys Piperato was saying he needs to check with his client. He doesn’t have that authority to do tonight. Your action would be to take a position assuming they are going to the ZHB unless and until Attorney Piperato talks to his client and there is something different on the table. They would request to be on the November 4 Council agenda.

- MOTION BY:** Mr. Maxfield moved to oppose unless the applicant continues until the November 15 ZHB meeting, and authorize our Solicitor to attend the ZHB if it’s not withdrawn along with any witnesses from HEA or Boucher & James.
- SECOND BY:** Mrs. Yerger
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 4-0 (Mrs. deLeon – Absent)

B. PIERPONT SLATER – 3893 ROUTE 378 – SECURITY REDUCTION REQUEST

Mr. Kern said the applicant is requesting a reduction in security for improvements that have been completed to date. Hanover Engineering has done an inspection and is recommending a reduction in the amount of \$228,461.51. Mr. Kocher said there is nothing outstanding.

- MOTION BY:** Mr. Maxfield moved for approval of the security reduction request for Pierpont Slater
- SECOND BY:** Mr. Horiszny
- Mr. Kern asked if anyone had any questions? No one raised their hand.
- ROLL CALL:** 4-0 (Mrs. deLeon – Absent)

C. ROTH MINOR SUBDIVISION – 2783 BUTTERMILK ROAD – REQUEST EXTENSION TO COMPLETE CONDITIONS

Mr. Kern said the applicant is requesting an extension of time to June 30, 2010 to complete the conditions of approval.

Mr. Kocher said there are no outstanding issues or escrow issues.

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MOTION BY: Mr. Maxfield moved for approval of the extension to complete conditions for the Roth Minor Subdivision.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

D. AMERICAN FAMILY SERVICES – 1804 LEITHSVILLE ROAD – SEWAGE HOLDING TANK EXTENSION

Mr. Kern said American Family Services executed a Holding Tank Agreement in 2003 for the installation of a holding tank on their property at 1804 Leithsville Road. The Holding Tank Agreement required an extension be approved by the Council.

MOTION BY: Mrs. Yerger moved for approval of the sewage holding tank extension for American Family Services.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL:

Attorney Treadwell asked if they asked for an amount of years for the extension? We need to put a limit on it. Mr. Kocher said yes, we should do it for another two years.

MOTION BY: Mrs. Yerger moved amended her previous motion for approval of the sewage holding tank extension for two years ending October 7, 2011 for American Family Services.
SECOND BY: Mr. Maxfield amended his second
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

V. TOWNSHIP BUSINESS ITEMS

A. APPROVAL OF REVISED PUBLIC WORKS JOB DESCRIPTION

Mr. Kern said to ensure there was sufficient manning for fire emergencies during the Monday – Friday 6:00 AM – 6:00 PM period, Council previously approved a policy to release Public Works crewmen who are trained firefighters to respond to fire calls during the workday. An additional recommendation that came out of the Fire Services group which was to revise the Public Works Crewman job description requiring new Public Works hires to be trained firefighters.

Mr. Cahalan said this was something that was discussed at the Fire Services Group meeting. We had a job description that we received from Hanover Township where they had included in the description for Road Crewman, requirements that they have a fire fighting and emergency response certification so that as we fill the ranks of the Public Works, we would have a sufficient number of trained people who could respond to fire calls. There is a copy a revised Public Works job description which includes the addition of the four requirements which are:

- completion of fire fighting and emergency response course
- completion of a vehicle rescue course
- attend training as required by the Commonwealth of PA for firefighting and vehicle rescue
- attend fire company drill sessions so they could maintain their certification and proficiency.

We would request, if Council agrees, the approval of the job description, and we would also have to run it by the Labor Union for their approval.

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MOTION BY: Mr. Horiszny moved for approval of the revised job description for the PW Crewman.
SECOND BY: Mr. Maxfield

Mr. Kern asked if anyone had any questions? Mr. Maxfield asked if we currently have people on the road crew who meet these requirements? Mr. Cahalan said yes. The policy you had adopted previously applied to two current PW crewman who have firefighting certification. Mr. Maxfield said on any normal day they could be on the response crew? Mr. Cahalan said it's subject to some limitations. If PW is involved in paving or snow removal or any other type of things that would compromise safety, it's at the discretion of the Director of PW. Mr. Maxfield said if we had a snow emergency, we should say something like that. Mr. Cahalan said that's already in the joint policy you adopted to release them. Mr. Horiszny said he made the motion but if its required for completion, then you can't even hire them in the first place until they become a firefighter. Mr. Cahalan said we'll advertise it and it is subject to requirements we have to follow to put an advertisement out. It has to be in-house first and then it can go out to the public. It's only out there for a certain period of time. This would be looking for people who not only drive trucks, but they also have to operate heavy equipment, and have a CDL license. Now we're adding a firefighter certification. It's possible we may not get anybody to apply with all of those qualifications, so at that point, if we need to fill the position and don't have any candidates who have all these firefighter qualifications, we may have to go and fill it like we do right now. Hopefully, there will be someone out there who has the qualifications. Mr. Horiszny said if we hire somebody like that and they say they'll do it, and then they don't, do we have any recourse? Can we say we need to have you start to do this? Attorney Treadwell said yes, we can say we want to have you start doing this. He doesn't think you can force them to do it, but PA is an at-will employment state anyway. Mr. Cahalan said under the policy, if they are not from the area, they would be required to join the local fire company.

ROLL CALL: 4-0 (Mrs. deLeon – Absent)

**A. ORDINANCE NO. 2009-10 – PUBLIC HEARING & CONSIDERATION OF ADOPTION –
ORDINANCE TO ENTER INTO INTERMUNICIPAL AGREEMENT WITH THE MUA
TO PURCHASE ENERGY**

Mr. Kern said Ordinance No. 2009-10 has been advertised for a public hearing and consideration of adoption to enter into an agreement with the Municipal Utility Alliance to purchase energy in 2010.

MOTION BY: Mrs. Yerger moved to open the public hearing.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

Mr. Cahalan said at the last meeting we showed you the intermunicipal agreement. This is the ordinance that is required to accompany that to authorize the Council President to sign that intermunicipal agreement. This is being done because of the looming deregulation of the PPL electric rates. They will expire as of January 1, 2010, and the rates are expected, according to the PUC to increase for small and mid-size business customers from 21% to 40% and that would increase our current cost per kilowatt hour from a 7.14 cents to 10.086 cents. The reason we are putting this intermunicipal agreement before you is to join with other municipalities in an aggregate group of utility users, local government users, so we can get better results from purchasing energy and electric. We have been in discussions through this Municipal Energy Alliance and the plan would be for us to lock in a three year fixed price rate through a group called Constellation New Energy. If we do that, it would lock in a rate of .0939 cents per kilowatt hour which would be an immediate savings from the deregulated price that PPL will be charging us. This document is for us to join in the alliance and bargain for a three year fixed rate which will save us on energy costs. Mr. Horiszny said does the MUA get paid by the energy supplier rather than by us? They must get something for setting up the agreements. Do they get a fee or do they

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work it in the contract? Mr. Cahalan said it's possible it could be in the contract. He will check on it and see if it's in the agreement. We are designating them as our consultant. Attorney Treadwell said he doesn't remember seeing any fee that goes to the MUA. Maybe there's something in the contract that somehow works out. His understanding of the process is that the more municipalities they have together, they go out and search for the best price and combine that buying power. He doesn't remember seeing any fee that goes to them. Mrs. Huhn said in the agreement it says they are not entitled to any compensation. Attorney Treadwell said not entitled to any compensation from the agencies (that's us). They may get compensation exclusively in the form of payments from and of the reimbursement of expenses by the supplier.

Mr. Christopher Grys said if the Township enters into this agreement to purchase this bulk power, will the Township still have the ability, if they so chose, to look into the solar power systems to generate their own and possibly sell it back to PPL or if you lock into this agreement, does that lock the Township out of doing something like that? There are a lot of incentives and grants out there which are available to put in solar systems to generate your own electricity and sell back some to the utilities. Would that stop the Township from doing something like that? Mr. Cahalan said it's not going to stop us from applying for those grants, and we did apply for one earlier this year called the Energy Harvest Fund and it was for a small solar PV system we were going to put on the police garage that would contribute less than 5% toward the energy uses for the municipal complex. We were notified they ran out of money. Just this week, we were notified by the State of PA that there is some federal stimulus money that is coming down through the pipeline and we are going to put together a grant application working with our partners, the Alliance for Sustainable Communities. This is going to be a much bigger one. It's a \$250,000 threshold. We will be going in for a bigger chunk of money for solar PV panels. As far as your specific question, he doesn't have an answer, but it is something we would explore. Right now we're trying to protect the Township for the near future from these deregulated increases. The fixed price is the cheapest. Mr. Grys said at his employer, they just put in a huge solar energy system that services their entire yard/facility as well as sells excess energy back. Mr. Cahalan said right now with an application going in, we can't bank on it being approved, so this is the best option we can recommend to the Township. Mr. Grys said he was just curious if it would lock you out. Mr. Horiszny said that's a good question, but he didn't see anything about a minimum purchase. We get the rate regardless of how much we buy, so if we cut back to buy our own, it's still covered. Attorney Treadwell said this intermunicipal agreement and the ordinance that authorizes you to do that, doesn't do that. The next step, when you get to the point of entering into a contract with the supplier, at that point, the supplier may say they are only giving you this price if you buy it for three years, and then you are locked into buying it for three years. It doesn't stop you from exploring other energy sources. If during that three year period, you decide we are switching over the solar, you are still paying the supplier for three years. That's where you could get locked in. Mr. Cahalan said they also have a grant application in for a geothermal system to reduce the energy usage for this complex.

- MOTION BY:** Mrs. Yerger moved to close the public hearing.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)
- MOTION BY:** Mr. Horiszny moved for approval to adopt Ordinance 2009-10.
SECOND BY: Mrs. Yerger
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

B. APPROVAL OF INTERGOVERNMENTAL AGREEMENT WITH MUNICIPAL UTILITY ALLIANCE

Mr. Kern said with electric rate caps expiring, PLCM through its Municipal Utility Alliance (MUA) Electricity Procurement Program, will enable the Township to join in a pool with other local governments in Pennsylvania to purchase electricity.

Attorney Treadwell said this is the same thing; you just need to approve the actual agreement now of the ordinance you just adopted.

MOTION BY: Mrs. Yerger moved for approval of intergovernmental agreement with Municipal Utility Alliance.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 4-0 (Mrs. deLeon – Absent)

C. ADOPT-A-ROAD PROGRAM – REQUESTS TO COUNCIL

Mr. Kern said Council approved the Adopt-A-Road policy in May 2009. The program encourages community volunteer organizations and groups to “adopt” designated Township roads and periodically conduct litter pick-ups along these roads. The Program was advertised and we have received several requests from organization to adopt road. The Manager will update Council on the program.

Mr. Cahalan said since it has been adopted, we put out information on the website and we also sent a mailing out to the various organizations. There were twenty-five roads that were designated as available for adoption and we received contacts from at least five organizations. Two of them we’ve finalized and the agreements are ready to be signed. That is with the SV Wrestling Club who has agreed to adopt Polk Valley Road from 412 up to Reservoir Road, and also the Lower Saucon Township Historical Society, who has agreed to adopt Countryside Lane. We’re still working on and finalizing the adoptions for the Saucon Creek Watershed Association and for the Lower Saucon Sportsman’s Association who really started this whole thing; we are waiting on approval from the City of Bethlehem who owns most of Ringhoffer Road. We asked for them to join with us in an Adopt-A-Road partnership for that road, and they indicated to us they are agreeable to it, but they turned it over to the lawyers. As soon as we get that back, we will sign up the Lower Saucon Sportsman Club. The program is moving along, and it’s very popular. Shortly, we’ll bring back a mockup of the signs we want to put on the road indicating it’s been adopted by an organization.

D. APPROVAL OF EAC OPEN SPACE FORMS – FLOW CHART & APPLICATION

Mr. Kern said the EAC Open Space Sub-Committee has worked on preparing documents and forms, such as a Preliminary Application for Open Space Program and an Open Space Flowchart, which they would like, with Council’s approval, to use and assist them with the processing of requests from landowners for consideration of properties for the Open Space Program.

Mr. Cahalan said there are two documents, the application and flow chart for the Open Space program. If you have the flow chart, you can follow along. The object of the flow chart was to walk everybody through this whole process. It says the landowner contacts the township. There is information that is put out to the general public, the residents, about the open space program. There is a brochure that the sub-committee put together. If a resident is interested in talking to the Open Space Sub-Committee (OSS) about the program, and they contact the Township, we would then send them this application, ask them to fill it out. It designates certain information on the form and gives the OSS some direction on how to proceed with the application. In here, the

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process of looking at the property begins with the OSS. As he mentioned, it basically walks someone through it. They can see what happens when they return the application. It goes to the OSS. The OSS meets to discuss the property, then they contact the landowner to discuss the program. They discuss the objectives, arrange a site visit, do the site visit, score the property with the score sheet, and it moves down to a recommendation ultimately to Council. If there is a recommendation not to proceed, there is also an indication that a letter would go out to the resident which is called a turn down letter and that would end the process. Mr. Maxfield said on all of the turn down boxes, all of them need Council approval to send a letter out. We wanted to give Council the last word in case there was some reason Council would be interested in a piece of property that the EAC was not interested in. Each of those boxes has that Council will preview it first.

Mr. Horiszny said thank you to the EAC. Mrs. Yerger said this took several months. The sub-committee has been very diligent and they were very exacting on it. We are grateful you adopted it. They take their job very seriously and you have to appreciate that.

MOTION BY: Mr. Horiszny moved to approve the EAC Open Space forms.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

E. APPROVAL OF JOINT PLANNING COMMISSION RECOMMENDATIONS

Mr. Kern said the Saucon Valley Multi-Municipal Comprehensive Plan, which was adopted this past summer by the Township, Borough and School District, contained a recommendation that the three (3) entities address joint opportunities related to parks and recreation planning, administration, facilities, maintenance and programming through formation of a Saucon Valley Recreation Authority or comparable public entity. Recommendations supporting the creation of a Joint Recreation Study Committee have been received from Hellertown Borough, the Township Planning Commission and Parks and Recreation Board.

Mr. Cahalan said the PC's from LST and HB have met several times and discussed a variety of joint issues that are impacting on the Borough and the Township on a regional basis. One of the items that they have brought up is this Joint Recreation Commission. At the last joint meeting and also at a SVP meeting, the school district raised their level of interest in this issue. We understand there will be a need for additional sports fields next year because of changes in the PIAA scheduling for girls sports, so the school board indicated they were very interested in joining in this process. There were motions made at the Joint PC meeting by LST PC and HB PC and a recommendation that came from the P&R Board to form a study committee which would have representatives from the three entities. The suggested members, for example, would be John Landis from the LST PC; Dave Spirk or Sheri Herman from the P&R; Bob Frey from the school district; and there is Phil Weber from HB PC. They would like to start meeting and start dealing with some of these issues that need to be dealt with and then come back to all three entities at some point with a recommendation.

Mr. Horiszny said in the first line, it says "join" instead of "Joint". Do we need a Council liaison? Mr. Cahalan said you could.

Mr. Maxfield said one of the things discussed at the joint PC meeting was you could assume that the school district, their involvement would be mostly with kid sports and the scheduling of fields. There was a desire from the boards that the Recreation Authority consider adult recreation and not overlook it. We should make this committee a broad range committee. Mr. Kern said if they need a Council liaison, he would be willing to do it.

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MOTION BY: Mr. Horiszny moved for approval to form a Joint Recreation Study Committee with HB and SVSD.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 4-0 (Mrs. deLeon – Absent)

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF SEPTEMBER 2 & 16, 2009 MINUTES

Mr. Kern said the minutes of the September 2 & 16, 2009 Council meeting have been prepared and are ready for Council's review and approval.

September 2, 2009:

MOTION BY: Mr. Maxfield moved for approval of the September 2, 2009 minutes, with changes.
SECOND BY: Mr. Yerger
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 3-0-1 (Mrs. deLeon – Absent; Mr. Horiszny – Abstained)

September 16, 2009:

Mr. Horiszny said it on line 1, Sandra Yerger wasn't here. Two of the votes were right and all the rest of them were wrong. He will give Mr. Cahalan the list. They are 4-0-1 and should be 4-0. You don't list the absent person at the time of the meeting.

Page 13, line 11 should be a 2-0-2 vote and it was listed as a 2-0-3.

Attorney Treadwell said at that meeting we had a discussion about we needed to have the absent vote counted. He doesn't know what the answer is, but he will find out. Mr. Horiszny said he's never seen it listed 4-0-1 unless it's an abstention. Attorney Treadwell said he will give you a definitive answer tomorrow.

MOTION BY: Mr. Maxfield moved for approval of the September 16, 2009 minutes, with corrections.
SECOND BY: Mr. Kern
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 3-0-1 (Mrs. deLeon – Absent; Mrs. Yerger – Abstained)

V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

- Alan Gross, Black River Road said regarding the Kipp zoning violations, he believes the violations were posted on September 9, so Kipp's thirty days are just about up. Is there an update? Attorney Treadwell said unfortunately the only update is it was posted on the 12th. His thirty days will be up on October 12th. The same with Mr. Williamson's violation was September 24th, so it will be up on October 24th. The notes he has from the Zoning Officer, it's up on the 12th. The thirty days will expire shortly. Mr. Kipp either appeals to the ZHB or he doesn't. If he doesn't it moves to the Magistrate. If he does, it goes to the ZHB. Either Mr. Kipp or Mr. Kipp's attorney has been talking to the Zoning Officer about how to potentially resolve this situation as well as with Mr. Williamson. There hasn't been anything determined yet, but those discussions won't hold up the appeal period. Either he appeals to the ZHB or he doesn't. Mr. Gross said how would we contact at the Township to get verification? Attorney Treadwell said call the Township zoning office. If he appeals it, his appeal will say he disagrees with the Zoning Officer's determination that he's in violation. That is why the ZHB is there to decide. If he doesn't appeal, then it's a district justice complaint. Mr. Maxfield said would the residents be asked to testify at that? Attorney Treadwell

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said generally he does not ask the residents. Normally, it's just the testimony of the Zoning Officer. It's public and we could inform the residents when it will be held. Mr. Gross said the Zoning Officer will be present? Attorney Treadwell said the Zoning Officer would be present at the ZHB or at the Magistrate. Mr. Maxfield said if it does go to the ZHB for an appeal, public turnout is essential.

- Christopher Grys said if he does go the route of the ZHB, would that not have to come back to Council before it can go the zoning hearing? Attorney Treadwell said no, the difference is the ones you saw earlier were special exception variance applications. The applicant is requesting something. When the Zoning Officer issues a determination like in this case, if that gets appealed to the ZHB, the Township has to show up and we have to present our evidence first as to why we believe there was a violation. Council doesn't have an option of supporting, opposing or taking no action. This is an action that the Township zoning office has taken and we have to go to the ZHB and defend that action. Mr. Grys said one of the staff mentioned he was going to remove it and get it within the thirty days. As of right now, he understands that Mr. Kipp is not going to try to appeal anything. The residents were going to still strictly oppose this as we continue to do. They thank Council for listening to them every meeting and taking their concerns very seriously.
- Allan Gross asked if Attorney Treadwell would be attending the zoning appeal? Attorney Treadwell said yes, on behalf of the Township as well as Chris Garges.
- Mark Wirth, resident said he has a concern now that the Embassy Bank is finished. There is a drainage containment area behind the bank that was always like a wetland. Since they initiated and finished all the landscaping, before they started that, they put a big pile of stone in the back part of that retention pond that was there that was actually a sinkhole at one time and the stone is still there. The stone is blocking the natural run of the water that feeds the swamp that is down there that was created by the Army Corp of Engineers when they put I-78 in. At the other end, at the bottom of bordering Decker's property and John Gilmore's property, there is a main drainage swale that was filled in by Mr. Warner, to get up through the properties that he acquired from Michael Stern, and that is blocked on both ends now. That has always been open as long as he can remember. Being that is blocked, it's going to possibly dry up that swamp. There's only one drainage swale that feeds that now, and there were two before. That's just a concern he has. Mr. Kern asked if Chris Garges could go and take a look at that. Mr. Cahalan said yes. Mr. Wirth said if they remove those stones, he would greatly appreciate it. Mr. Cahalan said they will report back at the next meeting.

VI. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER

- Mr. Cahalan said we have a historical marker sign that is finished for the Redington Chapel site and he was wondering if there was any interest in Council going out to the Redington site to dedicate that. SV History Day is October 24. The site has somewhat been developed and the sign can go up. He wanted to know if Council wanted a short ceremony. History Day starts at 9 AM, so it might be a little difficult to do two. If you are interested, let us know.
- Mr. Cahalan said the next thing is the Halloween Parade is Sunday, October 18 at 2:00 PM. If you are going to participate, you have to be at the start line at 1:30 PM. We'll have the truck there for the Council members and a lot of candy to hand out.
- Mr. Cahalan said usually about this time each year, our DUI Coordinator, Ron Jones, comes for a renewal of the DUI Grant, which is called the Sobriety Checkpoint and Expanded DUI Underage Drinking Enforcement Program. That program we run in conjunction with Hellertown and Freemansburg Borough. He usually comes in and asks for authorization to submit the grant and have it signed by the Council President. Previously, a couple of months ago, you approved them doing it electronically, and they have done that. He just wanted to report they received a grant in the amount of \$58,466 for 2010.

B. COUNCIL/JR. COUNCIL PERSON

Kimberly Kelly

- She said at the Northampton Community College there is a hazardous waste drop off on October 10, 2009. The Township has an electronic recycling on October 10 at Town Hall. She brought that to the school and gave it to Bob Frey, and they let the students know about it and it's also on the school website. They haven't printed out the flyers yet, but she will check on that. Mr. Kern said Kimberly did this all on her own. Good job.

Mr. Maxfield

- He said last night at EAC, they voted on a recommendation for a policy for timbering on township conserved easement areas. Basically, the policy recommendation was that the Council create/adopt a policy that would not allow commercial lumbering on conserved areas purchased with Township funds. We would like to ask Staff to develop a policy that says that. He would ask that Staff do that so we could bring it back for a vote. He'd ask you now if you would support that policy for conservation easements. Attorney Treadwell said it's a good idea so you will have it in place today and going forward. Mr. Maxfield said we talked about clarity before and this will clarify it. He would ask for your support. Mr. Kern said he would support it. The reason we are in the business of conserving the properties is to conserve the pristine view shed the property offers and it would be important for the property owners to know that if we enter into an agreement and spend taxpayers money on the view shed, we should have the intention of preserving it and no lumbering would be permitted on it in the future. Mrs. Yerger said we are talking in terms of commercial lumbering, not removal of invasives, removal of diseased trees, we're not talking about sustainable forest practices. We are talking about commercial lumbering. Mr. Maxfield said the policy would be a guide. Council always has the ability to find variations in the policy if it's worthwhile or for any extraordinary reasons.

MOTION BY: Mr. Maxfield moved that we adopt the policy although we don't have specific verbiage.

SECOND BY: Mr. Horiszny

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

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

Mr. Maxfield said Columbia Gas seems to be doing a whole lot of work on one of their mini sites on Easton Road. He didn't know if they let us know. If they are doing major work on that site, maybe we could convince them to remove that eyesore trailer they have on that site that is rotting into the ground. It's like at the entrance of the Township border. The gas plant is an eyesore enough and the trailer makes it worse. Please ask them to remove it. Mr. Cahalan will get back to Council on this.

Mr. Maxfield said he's hoping this will help us out with the variance requests we get. Could we look at the zoning variance application, in it, one of the most important things in it is the hardship clause which we always talk about and it's stuck down way at the end of the application. It should be one of the primary questions, after we take name, address. From every course he's ever taken, that is the cutoff. Either you have a hardship or you don't. If you don't, you don't get the variance. If we placed it near the beginning of the application, it would stress its importance. Mr. Cahalan said they will look into it.

Mrs. Yerger

Nothing

Mr. Horiszny

- He said he would like to advise everyone that the Se-Wy-Co Open House is this Saturday from 9 AM to 1:00 PM.

**General Business Meeting
October 7, 2009**

Mr. Kern
None

Mrs. deLeon
Absent

E. ENGINEER
None

F. SOLICITOR
None

G. PLANNER
None

VII. ADJOURNMENT

MOTION BY: Mrs. Yerger moved for adjournment. The time was 9:05 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:

Jack Cahalan
Township Manager

Glenn Kern
President of Council