

I. OPENING

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

II. PUBLIC COMMENT PROCEDURE

III. PRESENTATIONS/HEARINGS

IV. DEVELOPER ITEMS

- A. All-Wydnor Cell Tower – 3693 Hickory Hill Road – Approval of Site Plan

V. TOWNSHIP BUSINESS ITEMS

- A. IESI Bethlehem Landfill – Township Technical Consultant Committee Recommendations
- B. Resolution #72-2012 – Fixing the General Purpose Tax Levy for 2013
- C. Resolution #74-2012 – Fixing EIT, Real Estate Transfer Tax & Local Services Tax for General Purpose
- D. 2013 Budget – Final Adoption – Resolution #75-2012
- E. Lower Saucon Citizens' Academy
- F. Award of Used 2000 Elgin Geovac Broom-Assisted Vacuum

VI. MISCELLANEOUS BUSINESS ITEMS

- A. Approval of December 5, 2012 Minutes
- B. Approval of November 2012 Financial Reports

VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

VIII. COUNCIL & STAFF REPORTS

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

IX. ADJOURNMENT

Next Planning Commission Meeting: December 27, 2012
Next Council Meeting: January 7, 2013
Next EAC Meeting: January 8, 2013
Next Saucon Valley Partnership: January 9, 2013 @ Hellertown Borough
Next Zoning Hearing Board Meeting: January 21, 2013
Next Park & Rec Meeting: February 4, 2013

I. OPENING

CALL TO ORDER: The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, December 19, 2012 at 7:00 P.M., at Lower Saucon Township, 3700 Old Philadelphia Pike, Bethlehem, PA with Mr. Glenn Kern, President, presiding.

ROLL CALL: Present: Glenn Kern, President; Tom Maxfield, Vice President; Ron Horiszny, Dave Willard and Priscilla deLeon, Council members; Jack Cahalan, Township Manager; Leslie Huhn, Assistant Manager; Cathy Gorman, Director of Finance; Linc Treadwell, Township Solicitor; Dan Miller, Township Engineer; and Karen Mallo, Township Planner.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENT OF ANY EXECUTIVE SESSION (IF APPLICABLE)

Mr. Kern said Council did meet in Executive Session prior to this meeting to discuss personnel issues and in particular, one of the items we discussed was salaries for department heads for 2013. The suggestion was for a 2% increase for the Township Manager, Chief of Police, Zoning Officer, Director of Public Works, Assistant Manager, Director of Finance and Administrative Assistant. Based on our discussion is there a motion by Council?

MOTION BY: Mr. Horiszny moved for approval of the 2% increase for all employees.

SECOND BY: Mr. Maxfield

Mr. Kern asked if anyone had any comments. Mr. Maxfield said do we want to make a different motion for the one position? Mr. Kern said there is one salary for the Administrative Assistant, Diane Palik, it was not a 2% increase, it was a \$5,000.00 increase based on an increase in job duties. Mr. Horiszny said he'll amend his motion.

ROLL CALL:

MOTION BY: Mr. Horiszny amended his previous motion and moved for approval of the 2% increase for all employees except for the Administrative Assistant.

SECOND BY: Mr. Maxfield amended his second

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

ROLL CALL: 5-0

MOTION BY: Mr. Maxfield moved for a salary increase for the Administrative Assistant, Diane Palik, to \$37,463.54

SECOND BY: Mr. Horiszny

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

ROLL CALL: 5-0

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

Mr. Kern said if you are on the agenda, you have Council and Staff's undivided attention. We will address you thoroughly and completely at the end of each agenda item. We do open it up to the public for public comment. We'll listen to whoever is speaking and at the completion of that, if you wish to speak, raise your hand and you'll be afforded that same courtesy of the floor where you will be able to speak. If you do speak, please use the microphone as we do transcribe the minutes verbatim so the transcriptionist can get word for word of what you are saying. State your name for the record for that same reason so the transcriptionist knows who is speaking.

III. PRESENTATION/HEARINGS – None

IV. DEVELOPER ITEMS

A. ALL-WYDNOR CELL TOWER – 3693 HICKORY HILL ROAD – APPROVAL OF SITE PLAN

Mr. Kern said the applicant is seeking site plan approval to construct a 112' communications tower. Below is the staff recommendation.

**STAFF RECOMMENDATION FOR ALL WYDNOR CELL TOWER CONSTRUCTION
3693 HICKORY HILL ROAD TAX MAP PARCEL Q6-3-9 SITE PLAN APPROVAL**

The Lower Saucon Township Staff recommends that the Township Council approve the "All Wydnor" Site Plan, as prepared by Henkels & McCoy, Inc., dated April 16, 2012, last revised November 14, 2012, consisting of fourteen (14) sheets.

Subject to the following conditions:

1. The Applicant shall address the review comments contained in the letter dated November 26, 2012 from Hanover Engineering Associates, Inc. to the satisfaction of the Township Council. The recommendations in Comments 8, 16, and 19 shall be required.
2. The Applicant shall address the review comments contained in the letter dated November 19, 2012 from Boucher & James, Inc. to the satisfaction of the Township Council.
3. The buffer plantings shown on the plan will be supplemented by an eight (8') foot high brown PVC fence.
4. Light shall be switched from photocell to a shielded, manual switch with an automatic shutoff (wind up) feature.
5. A Knox Padlock will be placed on the gate.
6. The Applicant shall provide four (4) complete sets of Plans 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 these conditions within one (1) year of the date of the conditional approval unless an extension is granted by the Township Council.
9. All waivers granted shall be noted on the Plans with the applicable section, requirements, date of approval, and any conditions of approval.

It is also recommended that Township Council approve waivers from the following requirements of the following Subdivision and Land Development Ordinance (SALDO) sections:

1. Section 145-52.C – to not require a tree for every 500 square feet of impervious coverage.
2. Chapter 145 (Ordinance 2003-04, as revised) – to not require design, submission, and review of a Land Development Plan(s).

The Planning Commission granted relief from the following Zoning Ordinance requirements at their November 29, 2012 meeting:

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2. Section 180-102.C(2)(a) – to permit a scale of 1" = 80', rather than the required 1"=50'.

Kate Durso from Fitzpatrick Lentz and Bubba was present on behalf of Verizon Wireless. Ms. Durso said she appeared before the Council back in the early part of the summer as they had submitted a request to the ZHB that included a variance to permit the freestanding structure on the PPL property as well as a setback variance from the property closest to I-78. At that time, we also presented to Council some photo simulations that were done and were also presented at the ZHB. They appeared at the ZHB on June 18, 2012 and obtained the requested variances to construct the facility and from the setback variances and there's also a requirement in the ordinance about getting written FCC approval and that's just something that is done by virtue of the license. That was included in the request for the relief. The conditions of the approval were that it be constructed in accordance with the plans and testimony presented at the hearing as well as our representative and guarantee that there would not be a light placed on the top of the monopole structure and that would be in accordance with the FAA guidelines which had stated we did not have to light it. They then submitted for site plan review. Typically the way this comes in before you, we would request conditional use approval and the site plan review would occur at the same time; but in this case we got a variance to permit the use. The use review occurred at the ZHB and the site plan review proceeded to the P/C and is now before the Council. The improvements are your typical improvements for wireless communication facilities, monopole structure, an equipment shelter at the base of the facility, and a fence compound. They are locating the pole adjacent to where there's an existing PPL pole that has the antennas located at the top of it that was approved back in the late 90's, early 2000 for Sprint and that facility also has equipment at the base of the structure. The Township has also reviewed a request on an adjoining property where Metro PCS was proposing to attach antennas to an existing PPL pole within a PPL right-of-way. In this case, all the proposed improvements would be located at the PPL substation behind it and adjacent to the existing poles. The property itself contains numerous electric utility poles. They first tried to see if they could locate on an existing structure as opposed to constructing a free standing structure, but unfortunately, the structural analysis that was done on the poles, some were wood and some were metal and they were not strong enough to support the weight and loading of the Verizon facility. They then again looked to see where on the property would be best suited, then they chose the location as far away from the residential area as they could and as close to the existing structure that currently has antennas on it, so from an appearance standpoint, it would be similar in appearance to the existing structures on the facility including the one with the antennas.

Mr. Kern said on the picture that we're seeing now, where is the existing one? Ms. Durso showed Council where the antennas were. Mr. Kern said the blue dot is where you are proposing? Ms. Durso said yes. Mr. Kern said how tall are those existing towers? Ms. Durso said the one they are closest to, the Sprint one, is 101'. They are proposing a monopole of 110', top of the antennas are 112' and then there's always a lightning rod at the top of the structure so it can be grounded.

Ms. Mallo said they are actually locating to the right of that pole. The blue dot is simply the address. Ms. Durso said they are closer to I-78 than to the substation. Attorney Treadwell said because there are members of the audience who are interested in this, that blue dot does not represent the location of the pole. Let's identify on this area where is the pole going to go? Ms. Durso said it would be 200' to the closest residential property line. The variance they received approval for setbacks was to be 81'11" to the property line closest to I-78. Attorney Treadwell said we are going to ignore that blue dot. It's 82' closer to I-78 than that existing pole that is there? Ms. Durso said yes and it is just about 82' from PPL's property line closest to I-78 as well. Mr. Horiszny said if it falls, can it reach I-78 or any house? Ms. Durso said obviously they are designed to the structural standards of the industry and actually they are overdesigned. It is more than its height from the closest residential property line. The variance that they received approval from was to allow it to be just under 82'. They typically are designed with a break point so that the stress at the top is alleviated. They are not designed to fall down on their side. If it would be, it would be if you took the structure itself and went 112', it would be close to the I-78, but that's what they got the variance from. That's not how they are designed. Mr. Maxfield said also the

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slope. Ms. Durso said correct. They did at the ZHB in order to support the request for the variance had to present testimony and evidence to support that so there would not be any adverse impact on any of the surrounding properties. They did meet the setback requirements that the ordinance has written into it regarding the residential property lines. What the Township has designated is 150' of the height setback as being appropriate.

Ms. Durso said it will continue to be an unmanned facility as the PPL facility doesn't require water or sewer. Once constructed, you usually have someone coming to the site as it's remotely monitored. It's similar to what the Sprint facility has. Maybe every once four to six weeks you'll have someone come and they would use the existing access and go back to the facility. Because PPL is the fee owner, PPL is in the business of allowing wireless communication facilities, so they are quite familiar with the maintenance obligations and what goes into it. Whether it is a co-location on one of their structures or where you have a free standing site on property that they own.

Attorney Treadwell said can you discuss the conditions that your client agreed to at the P/C? Mr. Maxfield said especially the additional buffering. Ms. Durso said there was a discussion at the P/C meeting with regards to the proposed tree buffer that was done in accordance with the ordinance requirements. The Fire Chief had wanted a Knox box at the fence compounds for emergency purposes and that was one of the conditions they agreed to. There was a concern about the lighting. They typically sometimes have a motion type sensor light on equipment shelters so when the maintenance person comes they can have the ability to see what they are doing. They agreed to have that as an on-off type switch as opposed to a motion sensor due to the questions and concerns with regard to the deer and it potentially going on and off. That's just at the height of the utility structure which is about 10' high. It would be shielded downward as well. It would allow them the ability to see to go into the door and then they can get to the equipment and do whatever maintenance they need to do. There was a discussion about the buffer plantings and a request was made that in addition to the buffer plantings that were showed as proposed on the plan, that we consider some sort of different type of fencing. We had originally proposed a chain link type of fence which you typically see in the industry but we agreed to an 8' high brown PVC fence. There would be the brown PVC fence and then the buffering shown on the plan that would go around that. If there was an issue with some of the trees getting eaten by the deer, you still would not see the base of the facility as you would have the brown PVC fencing around it. The other things discussed at the meeting dealt with making sure they would comply with the two review letters they received. At the P/C meeting, they confirmed that he spacing that was proposed was typically how you would see those types of trees going around the base of the facility. They weren't proposing anything out of the ordinary.

Attorney Treadwell said for Council's edification those three conditions that were just discussed are items 3, 4 and 5 on the staff recommendation that you received in your packet. In addition there has been an item added under the Subdivision and Land Development ordinance which is the waiver from Chapter 145 not to require design submission and review of land development plan from what you are seeing now is the site plan. There's no real need to see a site plan followed by a land development plan. That has been added as it was left off by mistake with the one that is in your packet.

Mr. Kern asked if anyone had any questions? Mr. Willard said in the Boucher & James letter dated November 19, 2012, page 4, item 8, it mentions a visual impact analysis. Is the applicant providing that? Ms. Durso said it already has been provided at the ZHB. There was discussion at the P/C meeting. What typically happens and they would do the same thing if they were coming before the Council at a conditional use hearing, they submit the visual impact analysis and then they provide sworn testimony from the person who prepared it explaining how it was prepared, where the photos were taken and that was all part of the record at the ZHB. There was some discussion about having a written, something in addition to the actual report itself and the explanation they gave and it's the same thing they would do if they were coming before you with the conditional use, is that the

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testimony and evidence set forth in the transcript is the written evidence to support the visual impact, but they definitely submitted it and the ZHB took it as an exhibit.

Mr. Maxfield said at the P/C meeting there was discussion about the pole color and we didn't find it during the meeting, but Ms. Mallo found it after the meeting that our ordinance requires the galvanized finish on the pole. That is the reason for that.

Ms. Durso said there were some residents at the P/C meeting that were questioning whether PPL had gone in and done some significant tree removal. PPL has advised that under their guidelines for emergencies and what not, for this specific site and property that they own, they went in and removed scrub that was underneath the utility poles as that's what is required to do. They did not clear cut trees. That wasn't their intention. The last time they were out there doing any significant tree cutting was in 2010. Anything they've done is required for emergency purposes and having seen what the hurricanes have done, it makes sense. It didn't solve the problem as people lost power, but it is some of the requirements they have to do now to keep up with the routine tree maintenance, not just on the property they own, but on other properties where they have right-of-ways.

Mr. Kern asked if anyone in the audience would like to speak? Mr. Mark Smith, resident, said the setback ordinances you have in place are a safety ordinance from a pole falling, and it was mentioned in your June 18th P/C minutes that if a pole fell it wouldn't hit a house because it meets the setback, it's 200'. Someone brought it up that it wouldn't hit the highway. This pole is above the power lines so in case that it does fall and as Mr. Maxfield said, it would fall down the hill, on top of the power line so he would contend there is some issue that you have an ordinance in place that is a safety ordinance that zoning has given them relief from the back, not hitting I-78, which is what they asked for and 82', and he's looked at that. He'd ask that this be considered as it would cause damage to our Township and to the power being transmitted on the 69 kilowatt line that PPL has out there. The comments that PPL hasn't been out since 2010 are incorrect. They've been out after the last big storm and did clear cut. He has pictures and evidence of that as well. Regarding the site plan, Mr. Maxfield brought up the fact that you wanted to be assured that the residents did not see the facility and arborvitae and the fence was mentioned. Based on a review of the plan, and if you look at the plan and exact drawings, that can't be done because the fence and the 12' wide opening of the fence faces the neighborhood. It is not orientated to the back unless your plan is incorrect and north has changed since he looked at the plans last. The gate which you would had assured us in Planning would be obstructed is not obstructed and cannot be obstructed. Ms. Durso said as they said at the P/C meeting, there needs to be an opening where there can't be any trees in order to open up the gate. The opening is designed to follow along the access. Part of it does go toward the residents. You are not going to ever shield the tower, we can admit that. With the PVC that's proposed as well as the landscaping on the other portions, they can't put trees in front of the gates, as no one could get in. She wants to add about the comment made about the safety factor. The towers designed for wireless purposes are designed to almost a higher standard than a utility pole. Utilities poles are located just as close to the lines that are there. PPL is the one who is the landowner, so PPL if they had any concerns with them having an adverse impact on their use and then generating electricity, they would have brought it to them. These are over designed structures specifically for that reason, both from the tower perspective as the tower company wants to make sure they have coverage especially if there is an emergency event. The utility companies have sites on their properties all over PA and in other states. Mr. Smith said all the towers that are in the back are holding wires; they are not free standing monopoles that are up there. Ms. Durso said the free standing monopoles can still fall and if it falls, it's going to take the lines with it, so regardless if any of them fall, they are going to take the lines with them. Mr. Smith said he agrees. Those points were brought up and P/C agreed it would be obstructed and based on the orientation of that plan, it cannot be obstructed. For further review and contact, and he's sure everyone has contacted PPL, PPL does not allow arborvitae in any of the right-of-ways and they do not recommend them as a shielding factor for any of the sub-stations. He would ask Council that if we reviewed the Sprint conditions of approval was probably put in there that they had to put arborvitae in place to

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shield the Sprint fencing, both in recent weeks, all that has been flat cut down by PPL. He does have information directly from PPL in an email dated today that they do not allow or recommend that those plantings be used in the right-of-way. They will flat cut them. Ms. Durso said PPL has specifically approved it. The plans were done by PPL's engineers, Henkel's & McCoy who does all their plans for wireless communication facilities. PPL's sub company that does these types of facilities has approved it. There is no question that if it is approved and approved with the landscaping and PVC fencing, that they can't go and remove it. PPL has approved these plans. Mr. Smith said he has evidence that it was cut. Those are PPL's markings and they cut them down. Ms. Durso said she doesn't even know if it was a condition of Sprint's approval. She's saying PPL has approved the arborvitae that's been proposed for their installation. She has no idea what kind of conditions of approval there were for the Sprint facility, not to mention that Sprint facility is using an existing PPL pole as to what's proposed here as a free standing structure. We are required and if they removed it, we'd be required to put it back up again at Verizon's cost. Mr. Maxfield said the fact that they cut down the arborvitae on the Sprint site, may cause them a problem with us as the Township ordinance is still a Township ordinance and they can't just take out those kinds of things that are agreements and conditions of approval without the Township's permission, so maybe we should send our Zoning Officer out there and check and see if that is a condition that would have to be restored if that is indeed destroyed. Mrs. deLeon asked where it was on the map? Mr. Smith showed Council where it was on the map. He said all of the arborvitae have been cut down at this point and he can't imagine with his conversations with someone who contacted him from PPL and the email he just showed to Council that they will not allow arborvitae in that right-of-way because they will grow to 30' tall and they go against their Federal guidelines of what they are allowed to do. Approved or not approved, this is the information he has to the best of his ability. Mr. Maxfield said the Federal guidelines say they have to manage that area. They still have to deal with the Township. They still have buffer requirements and they still can't do exactly what they want to do. It wouldn't be the first time they butted heads with them and they have a reputation of going in and blasting away at things and doing what they want to do. Mr. Smith said they have gone in and flat cut and flat cut behind his home. Mr. Maxfield said they have to be restored at PPL's expense. Ms. Durso said there was an engineer present at the ZHB meeting who testified under oath about the plan and what was being proposed. She can't say what's up with the Sprint pole and that some of the other trees that were removed were not for safety purposes, and we all know what happened in October, but they presented a visuals impact analysis and that was done with photos that were done at that time. Verizon would be responsible for replacing any arborvitae regardless of who cuts it down. That's what the ordinance says. We are assuming something about a Sprint site that we don't have any information to know whether or not they were required to put anything around it. Mrs. deLeon said the houses we see, she wants to know where the site is? Mr. Smith showed on the overhead map where the site would be. He showed where his property is. The trees are gone and PPL has cut them down. Ms. Durso said that's a Google map. You have a different take when it's winter. Mr. Smith said PPL has cut all the brush underneath. From storm damage and things like that, trees are gone. Ms. Durso said we're here for site plan approval. Nobody is discounting the fact that you are going to see the pole. That's what the ZHB approved. They specifically approved it at that location. The landscaping that's proposed around it meets your ordinance requirements and we agreed to put the PVC fencing on top of that which isn't a requirement of the ordinance. Everything else is in compliance with your ordinance except for the variances we received which was to allow for the use and the setback variance to the I-78 property line.

Mrs. deLeon said you came before us in the summertime and went to the ZHB. What was their approval? Ms. Durso said they granted a use variance to allow the facility as shown on the plans. They granted a setback variance from the property line closest to I-78 and they granted a variance to allow it because the Sprint site has antennas on it, to allow those towers to be whatever distance they are, it's closer than what the ordinance allows and they granted a variance to not provide FCC written approval as the FCC doesn't provide written approval. They do it by virtue of their license. All of the testimony and evidence was provided at that hearing. Unfortunately the neighbors were not at the hearing. They were given notice. The Township sent you notices and they admitted at

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the P/C meeting that some of them got notices and they didn't come to the P/C meeting. We're revisiting a lot of zoning issues and issues that were disposed of at the ZHB. Rightly or wrongly, they didn't come to the ZHB meeting hearing. We're here tonight for site plan approval. Mrs. deLeon said she was here when we designed and wrote the cell tower ordinance and she remembers taking a pencil and going like this to figure out the fall zone. Right now you learn something new every day, so knowing the past cell towers are possibly going to fall on wires, is upsetting to her as that wasn't the plan or her intention. Mr. Smith said the cell tower that you have in there now is on a power line. Mrs. deLeon said she never thought of that. Mr. Smith said his concern is that they are strung together and it's a huge pole. We're putting a free standing one uphill of them. The minutes came to the point of saying it's not going to fall on someone's house. He agrees and he agrees that they've more than met that setback. He doesn't agree that you're putting it above the power line. He believes what you are asking to put underneath there, the arborvitae, the deer are going to eat them and they will be gone and PPL has been flat cutting in there. Mrs. deLeon said she actually watched a tower at the shore with Hurricane Sandy bend over and fall over in half while it was happening. Mr. Smith said his point is and he agrees he wasn't at that meeting, but he's now looking at the plans. He was at the P/C meeting also when they were assured it would be completely buffered and then as he looks at the plan the gate are facing the house instead of facing I-78. I-78 is buffered, and that's great. Mr. Maxfield said a little bit of exception to your statement about being completely buffered as our goals with buffering have always been to obscure it as much as possible, never to totally hide it. That is impossible. Mr. Smith said he knows you can't hide it totally, but it was Mr. Maxfield's request, and he said "he didn't want the residents to see it". With the gate being in the place it is, you can't do that. It's facing the wrong way. Mr. Maxfield said there are established trails and roads and gravel drives and they may be kind of limited as to where the gate can go. Mr. Smith said the site plan mentions another one above it. Ms. Durso said no, that says an existing unimproved access. The one that we're going off of is an existing gravel access road. It was specifically chosen to go off the existing gravel access road. Mrs. deLeon said is there any way you can change the opening? Ms. Durso said she can't see how. If we add more gravel, then they run into issues with the amount of impervious. That's their concerns. They specifically designed it to limit the amount of impervious to not add anything. If you're going to waive any potential impact it would have from adding impervious coverage, then maybe there's a way that they can go past it and up, but we can't go in from the other side. They can't go in from the northwest side as the access isn't over on that side. Mr. Smith said it's impossible for someone to walk around to a gate in the back? Ms. Durso said the gate needs to be where the requirement in the ordinance says. Mrs. deLeon said you should really look at coming in a different way. We do these things all the time with these cell towers and this is the first time in a long time we've had people here that are concerned about this and their concerns need to be addressed. Ms. Durso said she understands that, but they meet the ordinance requirements. They discussed this at the P/C and that's why they offered to do the PVC fencing. Mrs. deLeon said and you want to be good neighbors. Ms. Durso said she thinks they are being good neighbors by what they've offered to do. Mrs. deLeon said that's your opinion. Mr. Maxfield said he would have to agree with Ms. Durso as they went above and beyond what they were required to do and they considered and did everything we asked them to do. The PVC mixed in with the fencing was not a requirement of our ordinance. Even at one point, they were going to put in additional plantings before we came up with the fence idea. We have to fairly say they tried to be a good neighbor. Attorney Treadwell said we should also point out to Council that the ordinance does not have a setback from power lines. It has a setback from residential property and other structures, but not from power lines. Mrs. deLeon said maybe that should be looked at. Ms. Durso said most municipalities ordinances require you to first co-locate on utility poles. That's the first place you have to go. She's just saying that as a standard in the industry, and throughout the Commonwealth of PA, that's usually where most of them are. If you travel throughout PA, they are usually on utility poles or in close proximity of those poles. You see them on the interstate close to right-of-ways. That's sort of what the industry standard is. Mr. Maxfield said let's remember why we investigated co-location because we didn't want to blast open a whole new site. We've had co-locations on power poles where we've had to do extensions on top of the pole, so he thinks PPL in their effort to supply power to the residents are probably considering the risk factor

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of the pole hitting the lines as opposed to breaking a whole new open site somewhere and that means new buildings for every pole, new lighting, new access roads, all kinds of things if we don't co-locate. Co-locate is supposed to be a reasonable, sensible way to do this project or any project like it, so let's keep it in mind. Mrs. deLeon said she is keeping that in mind and that's one of the reasons why you got on Council because they wanted to put a cell tower by your house. Mr. Maxfield said that's right. Mr. Smith said the co-location you are doing today is requiring new buildings, new gravel, new impervious. It is doing all of that. Attorney Treadwell said this technically isn't a co-location because it's a new tower. Ms. Durso said it would be a co-location except the fact that utility poles are not strong enough. They still have the base equipment at the foot of the structure as well as the same fence compound and the same landscaping regardless of co-locating on an existing pole or doing a free standing site. Part of the main reason in addition to the gap in coverage that Verizon has and the need of the facility here was from an aesthetic standpoint to try and locate it in an area where there are existing poles that are right adjacent to it; one that already has antennas and multiple poles on the PPL property. Mr. Kern said as with any design project when you move along the process, items come up for consideration and this probably was just something no one thought about as to the co-location of the gate. At this point is it possible to change the location of the gate? Ms. Durso said she doesn't think it can readily be changed. It's not an easy change that can be made, but she can say to you, if it's going to increase the impervious coverage, then no. Mrs. deLeon said who knows that? Ms. Durso said she doesn't see how it wouldn't, as the way to do it would be to bend it around and you're adding more gravel. Mrs. deLeon said are you at the maximum now? Mr. Miller said they are very close. Mr. Kern said if the gate were to be changed into a more suitable location, would that satisfy you? Mr. Smith said if the tower is going up regardless, it may. He would still prefer it not to go up whether there are poles there or not. It's not to have an additional safety risk put in. That would probably help. If you can supersede PPL on vegetation growth in the back and what their requirements are to obtain their Federal standard of transmissions so they don't get fined and can do that as a Township, we can supersede that then maybe the vegetation will be in place as well. His information that he found, they are not going to allow that. They are specifically saying those plantings are not allowed in their right-of-way. Attorney Treadwell said let him read what the email that Mr. Smith presented says "PPL's policy will not allow arborvitae under or near any power lines and do not recommend planting them as a break around sub-stations". It doesn't say and maybe it's because of the way the question was asked, that they won't allow it as a buffer around a cell tower on property that they own. Mr. Smith said his contention is that it's under the power lines and that supersedes how you dance into that question. Attorney Treadwell said the question is the same question we're discussing tonight and he doesn't know the answer as he didn't have that conversation. Mrs. deLeon said Verizon is leasing from PPL so they, in their heads don't think about that. They send work crews out there. Ms. Durso said they are well aware of where the site is located. They had two PPL representatives at the ZHB hearing. Mrs. deLeon said she hears you and these people hear you, but when they send work crews out there, do you think they know what the site plans says? Mr. Maxfield said then it's our job to let them know. Mrs. deLeon said we're not doing it as they cut down those trees. Mr. Maxfield said that's why he said earlier we should send the Zoning Officer out to check it because if we have conditions of approval, those conditions must remain in place, not because some work crew guy can't quite get the message. Mrs. deLeon said they weren't told the message. Mr. Maxfield said then we have to relay the message. Mr. Smith said he'd respectfully ask that Council postpone the approval of the site plan based on the contingency of the fence and some other changes being made and in reviewing the arborvitae. Mrs. deLeon said what is the time line on this? Someone said January. Mrs. deLeon said she thinks they should give us an extension until January. Ms. Durso said we went from the PC meeting and discussed this. We did exactly what the P/C asked. Mrs. deLeon said this is Township Council. There's a difference. Ms. Durso said she understands that. Mrs. deLeon said look it up in the Municipal's Planning Code. Ms. Durso said she understands that, but the plan meets the ordinance requirements with regard to the landscaping, with regard to the fencing and they've gone above and beyond it. She doesn't think anything else different is going to change between now and the next meeting when we meet the ordinance requirements. Mr. Horiszny said is the only problem when the gate is open? That's the only time the station can be

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seen or the equipment can be seen? Ms. Durso said yes. The gates are closed. Attorney Treadwell said is the gate a PVC gate? Ms. Durso said yes, that was her understanding at the P/C meeting that was what was requested. Mr. Maxfield said you have an 8' screened fence topped off by arborvitae even if the deer eat all the way up to 8'; you have arborvitae that will go above. Ms. Durso said yes, what was on the plan.

Ms. Tammy Ferguson said she lives in the house to the east of the Smith's. She was here at the last Council meeting and the P/C meeting and she brought up a lot of issues. She said this picture and the picture that was put up at the beginning of this discussion are very old pictures. The lawyer representing the cell towers keeps saying we got approval, we did everything, we exceeded everything. The fact remains that those pictures are misleading. The Zoning people, the Planning people and you are looking at what is supposed to be a buffer, and again, it was submitted at the beginning of the discussion that there was a heavily wooded area. That buffer is about a quarter of the width between the houses and that tower you see now. Ms. Durso said the Google map up here was not presented to the ZHB. Ms. Ferguson said you do not have a date on that Google map. Ms. Durso said that's not her Google map. That's what the Township provided. That was not provided at the ZHB hearing. The visual impact analysis was provided at the ZHB which was done on photographs taken specifically right before the ZHB hearing took place. Ms. Ferguson said so not having one of those photographs in front of her, she's going by the photograph that's up there as a matter of reference for everyone here tonight, and there is about a quarter of a width of those trees. They came back and clear cut after the storm last year. They clear cut again this year. Mrs. deLeon is right that they don't even put PPL crews in there. They had all kinds of make shift crews come there and they cut what they wanted and they cut it very badly. She has a tree in her backyard with a big X on it and it was cut right above that X and she gets to look at that X every day. Unless someone is going to police whenever it is that PPL comes out to do their clear cutting, that's what they are going to deal with. She brought up at the last meeting and she'll say it again, after this last storm it was in the paper several times that PPL is thinking about claiming even more of a buffer area so that their lines are not in jeopardy by anything at all. She submits that while we have about a quarter of the trees there as a buffer, it's going to eventually be less. No matter what you put up, the fence, the arborvitae, you are going to see it. You are going to see that tower even more than we see it today. The pictures that Mr. Smith gave you are absolutely accurate. You can see very well up to that. She lives there as well. She also mentioned at the last meeting and questioned did it have to be a metal tower as there are decorative towers now. She was told it had to because it had to. She really didn't get a solid answer on that. You said something about it has to be galvanized. It was also brought up by one of the lawyers last time that there are many poles there and many of them are metal. If you stand on Hickory Hill Road and you look down that utility swath, there's one metal pole and it's that cell tower pole. All the rest of them are wooden. The advantage of them bring wooden is it blends in with the trees. She understands you don't want it to be wooden as it doesn't have the same density or the capacity to hold the height and weight of it, but the fact remains you are putting a really ugly obstruction back there that doesn't blend in and is not buffered. We talked about impervious and not wanting to expand on the impervious matter that's around it or to move that entrance way. Last meeting she got up and said right now, without any other moving of ground, what we have is water that runs visibly around the top of the ground, caddy corner from the sub-station towards her house. It runs through the Smith's back house, puddles there in a low spot. It runs directly into her yard, sinks down, she pumps it out of her basement and down her driveway any time it rains. She invested in all kinds of underground mechanisms to pull it away from her house, but if she has a power outage because a pole came down or a storm came through, and she's got water on the ground, her basement is going to flood. Mr. Maxfield said before we leave that, he was looking at the Google picture, he doesn't know how far behind the house your property line is, but are those swales behind the house that lead down? Ms. Ferguson said there are no engineered swales, there may be natural paths. Mr. Maxfield said they look pretty darn straight there. You can see the house that's on the left, the dark brown going up and there's one below that is a swale that takes it down to the street. Ms. Ferguson said there's a split rail fence on that property. Mr. Maxfield said is there a swale in it? Ms. Ferguson said not an engineered one. Her point about the impervious matter is any kind of movement of any kind of

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ground or addition of non porous matter is going to push even more water towards them, and that's a hardship. When you are talking about hardships to allow a variance, that's a hardship that you are going to be placing on them. Mr. Kern said that sort of eliminates the idea of moving the gate then. Ms. Ferguson said it might, then maybe it shouldn't be there to begin with at all. You are increasing the amount of impervious matter by putting it there. In terms of being good neighbors, yes, in fact, they have said they would put up the PVC fencing, but those pictures do not lie. You will totally see that pole. You will see those vehicles in and out. The other night she was coming home and she passed by the entry way to the PPL substation. It was probably 9 pm with lights on, it wasn't PPL, she doesn't know who it was. You are attracting she doesn't know what back there by putting in another road. Ms. Durso said they are not proposing another road, it's the existing road. Ms. Ferguson said you are going beyond the existing road. The sub-station is east of the existing road that you are proposing. Ms. Durso said it's not being extended of any significance. There's an access drive that goes back to the property. Ms. Ferguson said it is being extended. By extending it, you are creating more impervious mater there that's going to move the water towards her house. Right now whenever it is windy out, the sky will light up back at the sub-station because she doesn't know if its things hitting the actual wires, but there is arcing going on now. We're getting a boom that shakes your whole house and it is light out when it is in the middle of the night. That's happening at the sub-station now. Let's consider putting a pole behind it with an antenna on it. Mrs. deLeon mentioned the cell tower ordinance. The lawyer mentioned that they are well within them. Those cell towers ordinances were started how many years ago. You could not possible foresee at that point in time all of the issues surrounding them now when it comes to safety of neighborhoods and the quality of life and the appearance of them. You mentioned you saw one split in half. Maybe that ordinance should be revisited now to look at where they can and can't be allowed. At that time, no one could predict that two years in a row we were going to have hurricane forces come through and snow in October that would bring down tree lines. Those ordinances are no longer protecting us with what has repeatedly come through this area. Ms. Durso said she thinks both the State and Federal government are aware of what has transpired in the wireless industry. The Federal government has recently enacted legislation to make it easier for carriers to put additional equipment on their sites, to co-locate, so they are well aware of the advances that have occurred in the wireless communications industry. Similarly, Governor Corbett enacted in October legislation for that to occur by permit only, so she thinks although she can understand some of the comments Ms. Ferguson is making, that she's not keeping up with the times as that's the industry standard. What's happening is now is the industry standards. She thinks they are on version G of the structural analysis requirements. They started out on version E and the updated the structural analysis. They now have more requirements to make them stronger than what they were in the 90's. Ms. Ferguson said she's not suggesting that they have not been updated. What she's saying if we are telling you things that are happening back there, by putting a pole up with an antenna on it would potentially cause a problem, then those are to be considered in addition to the existing ordinances. That's what she is suggesting. She's not saying anybody is not doing their job, they are not keeping up with the times. Ms. Durso said you are saying things you think are problems. She's saying with the proposed facility meeting the ordinance requirements, which have kept up with the times, they meet the legislative requirements, the carrier are doing everything they are required to do. That's why they went to the ZHB to get the approval. Ms. Ferguson said she knows why you went to the ZHB. One of the first things you said tonight is look at the buffer that is here. You are not going to see it from the houses and they proved that's not the case. While you have that approval, it was given without proper evidence. You have the evidence today. Ms. Durso said she disagrees. They provided evidence at the hearing that include a visual impact analysis that was done at that time with photographs done at that time. Ms. Ferguson said today we're giving you what was this week. Ms. Durso said we satisfied the ordinance requirements regardless. Ms. Ferguson said as a good neighbor coming in, it takes more than just satisfying the minimum or maximum requirements of an ordinance. Ms. Durso said which is why they offered the PVC fence, which is why they agreed to the Knox box, which is why they also agreed to condition of the approval to make sure the facility wouldn't be lit, agreed to the type of lighting that would be at the base of the facility and typically these are things that don't come up at the site plan review, they would come up at the ZHB hearing. Ms. Ferguson said we know all that.

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What she's saying is what they had in front of them that day is not what's there now. She's giving additional information about issues of water, issues with electricity, lightning, the sky arcing. We're hearing about potentially this pole coming down on lines. That wasn't discussed at the ZHB. Ms. Durso said yes it was. Ms. Ferguson said if it was, that's fine. We're talking about them again tonight and we're asking that they please look at these when they are looking at the possibility of this going in. Everything that disturbs them is that if this door opens up, it's Pandora's box. What they were told last time they were here is if anybody, another carrier, would like to add onto this compound and pole, all it would require is a permit. Who is policing that? That could expand and expand into the buffer area that's not there. Attorney Treadwell said that co-location is the new state law. All it takes is a permit to co-locate on an existing pole. Ms. Ferguson said if you are granting them the ability to go there, you are opening Pandora's box. Ms. Durso said they aren't granting the approval to go there. The ZHB has already granted the approval to go there. Attorney Treadwell said we are here tonight to discuss the application for the site plan approval. As you have heard, the time requirement for the Township to act runs out on December 31st. If we do not act by December 31st, then it's a deemed approval unless the applicant gives us an extension. He didn't hear from the applicants tonight any indication that they were inclined to give an extension at this time. What you have in front of you is a proposed staff recommendation for the approval of the site plan. The site plan has been reviewed and the site plan meets your current ordinance requirements. There are conditions as he discussed previously, Nos. 3, 4 and 5 in the recommendation for approval that the applicant agreed to at the P/C that go beyond what your ordinance requires. The impervious coverage was looked at. The impervious coverage that is there now and that will be added to allow the construction of this new tower meets the ordinance requirements. That's what you have in front of you tonight. The use was approved by the ZHB on June 18th. The use issue is not in front of you, the site plan is in front of you.

Mr. Horiszny said in light of the fact that all arguments we have heard have been with PPL and not Verizon, he moves that we approve the site plan.

MOTION BY: Mr. Horiszny moved that Council approve the site plan subject to the prepared staff recommendation for the All-Wydnor cell tower at 3692 Hickory Hill Road, Tax Parcel Q6-3-9.

Mr. Maxfield said as a lot of people here know, this came through the P/C and from the P/C perspective he would say that they appreciate that the applicant's cooperation. Ms. Durso is absolutely right that the use was not an issue for us either. The use was granted by the ZHB, so it was our job to make this as palatable as possible, and we did that with their cooperation. Things like the woodland buffer were not part of the arguments. It's not like we could legislate anything about that woodland buffer anyways. The buffer we could legislate would be the one around the compound itself. We felt like we were doing the best possible thing we could do with the site given that the use was given already and that it was going to occur.

Mr. Willard said what's the basis for the December 31st deadline? Attorney Treadwell said we have 90 days from the time the plan is submitted to us to act on. In this case, previous extensions were granted to make changes to the plan to get us to December 31st.

Mrs. deLeon said Attorney Treadwell went over the draft motion, but it also says it is recommended that Council approve waivers. There's two waivers, Section 145-52C and Chapter 145, Ordinance 2003-2004 as revised. It's her understanding that they really didn't meet all the Township ordinances because if they did, we wouldn't be giving them waivers. Ms. Durso said the one waiver is a scale waiver that they could put all of the plan on one page as opposed to two pages. The other actually is a SALDO section which we're not here for land development, we're here for the site plan review. We provided a different type of tree landscaping that was requested around the site, so that's the nature of the waiver. Mrs. deLeon said she may or may not agree with that. That's her prerogative. Mr. Maxfield said the P/C agreed with both waivers and he thinks that they were thankful for the one so we didn't have two sheets we had to look at and the other one made sense to them from a planning perspective. Mrs. deLeon said the P/C is only a

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recommending body. Mr. Maxfield said right, are you belittling what the P/C does? Mrs. deLeon said no, are you? Mr. Kern said since it's a review, there was one item the gentlemen had discussed before that he was under considering which was the moving of the gate. In hearing the second testimony that any further impervious would create an issue with that and any moving of the gate is out of the question because if we don't do any imperious, we fall within the guidelines right now. That's important so there are no further water issues. Mr. Maxfield said plus the ordinance requires that any service vehicle be parked inside the compound, not outside, so they have to have access for the vehicles. The lighting we talked about, we talked about a timer, a motion-sensor light, and the thing that made the most sense from a neighborhood perspective was to have an on and off switch. It's on when you are there and it's off when you are not. The testimony was in the vast majority of cases, most of the service work was done in the daytime.

Someone said who do we call if they leave it on? Mr. Miller said one of the conditions of approval is that it turns itself off. If that feature fails, call Verizon. Someone said that's helpful.

Mr. Smith said he would just respectfully ask that as he looked at the site plan, we talked about the fence, the gate, parking within the compound. He's not asking for you to move the compound. Move the gate. Move it 90 degrees around to the other side so it opens at the other side. It will actually open closer to the cars so the people would have a better access and then it would not be facing down into the property. It would be facing the Hickory Hill versus facing Woodhill Drive. Ms. Durso said if you move it further around, you have to move the access to get the cars to go into the gate. They can't move it the other way as there's an existing utility pole as there's one located there. Mr. Smith said you are asking that you have to park the vehicles inside the compound. Ms. Durso said that is the ordinance requirement. Mr. Smith said then why do we have two parking spots there? Ms. Durso said that's the ordinance requirement. Mr. Smith said you wouldn't be able to take that and park it in through that side gate? Ms. Durso said not without adding impervious. Mr. Smith said he's just looking at the math and it doesn't seem like there's not going to be much impervious added to make that happen. Mr. Willard asked if the applicant would be willing to extend to January 15th? We have another meeting on January 7th. He respects the work of our P/C and he realizes you had approvals from the ZHB. Much of the testimony about visual impact, you said came from that ZHB meeting. He would like more time to review the minutes of the ZHB hearing and the P/C before he has to vote. If he has to vote tonight under the pressure of a deadline, he will vote against. Ms. Durso said her issue is she already has a hearing on January 7th and the carrier has timeframes. They've been working on this since the summertime and Mr. Maxfield correctly stated that every time they were asked to make changes to the plans, they gave an extension and changed the plan. In her opinion, there's nothing different that would happen between now and January as we can't move the gate without increasing the impervious. Some people don't want the impervious increased and they can't increase it without going above whatever the maximum allowed. Normally she would say it wouldn't be an issue but she doesn't see anything different being on these plans. With the visual impact analysis, that has nothing to do with the site plan review at all.

Ms. Denise Smith said she lives at 1601 Woodhill Drive and it's behind her home. She appreciates everyone's thoughtful consideration of this issue. She thinks it's really important and we keep in mind the quality of life for our residents now and into the future and she recognizes that the guidelines have been met and the distance and those kinds of things and our attorney's can say in good conscience they met those things in attempting to be a good neighbor. She really implores you to go back to the genesis of this situation whereby comments were made about there being no adverse impact on nearby properties and a visual impact analysis that we did not have the opportunity until tonight to see. When she walked into this room and everybody walked into this room, are we able to go back to the Google map? That particular photo, if anything even remotely like that photograph was part of the visual analysis and variance hearing process, she could see why one might think there is a very significant amount of densely wooded area and buffer. Everyone here in good conscious is concerned about the buffer and what the residents see. The bottom line in this neighborhood is that what is shown here is not even remotely close to what the

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experience of us as homeowners see out of our backyards. The pictures you saw tonight were taken yesterday and she would encourage anyone of you to come to her yard. You have her permission to go on her property and stand and look. We can say we have to rush and get this through because we need to meet a deadline, but we are stuck living with this the rest of our time as homeowners. It is devastating what it looks like to us back there. When we bought our homes ten to fifteen years ago, the trees were much denser at that time. She will take you back a little bit further as it is incumbent for us to look at the full situation. We are not opposed to growth. We all enjoy our cell phones and our technology and realize it's really important and growth must go on and we have to deal with that in a responsible fashion. When these homes were put up, and yes, we know I-78 was there first. Looking back at what has happened with progress since that time, Route 33 was not open at that time when the homes were built. Route 33 has absolutely achieved its goal. It moved a lot of traffic off of Route 22 onto I-78. On top of that, casino gaming is now a reality in the Lehigh Valley that the Route 412 interchange has to be widened and they are spending millions of dollars. Why is that? Because there is so much traffic on I-78, then when you complicate that with the two storms we had and the significant amount of the trees that have been cut down behind them, many of the logs left laying there for them and all to look at. Many years ago she could construe that being a reasonable representation of what the trees looked like and what the buffer was behind their home. It is simply not reality and if there was anything even close to that, she could have seen how that variance was passed as she could have passed it in good conscious as a member of that committee or Council that it was a reasonable buffer for the people in that development not to experience a damage in their quality of life and home values. Ms. Durso said that Google map was not presented at the ZHB hearing in order to support the visual impact analysis when that was done. Ms. Smith said she doesn't know what it would look like, but she would ask for a little bit more time to look at that. Please do look at whatever was presented and please come to her property and take a look. You need to make a fully educated decision. If those were anywhere close, then that variance was at least given in part with bad information. As a resident of this community who has already enjoyed living here and would like to continue to live here, and as do all her neighbors, we need to ask you to give serious consideration to them as it's doing a terrible disservice to them.

Ms. Tammy Ferguson said in terms of the timing of this, the last meeting she asked for a timetable when they would break ground and when this project would start construction and when it would be completed. There was no urgency in the answer that was provided. They said sometime next year and it would be done by the end of next year. That's a very reasonable request that if the 7th or 15th of January is some kind of conflict, then let's talk about a different date and type. There was absolutely no urgency given.

Ms. Durso said the issue is that there's nothing that would change on the plan from what's on the plan between now and then. We satisfied the buffer requirements and we went above and beyond the buffer requirement. She doesn't know what else they can do buffer wise. Ms. Ferguson said give the extension. Ms. Durso said nothing else can happen. It is what is shown on the plan. All we're doing is waiting weeks to not be able to satisfy you as you don't want to look at the tower and the tower has already been approved. Mr. Horiszny said he can sympathize with you on your loss of buffer as he just lost one in his backyard and he can see houses he couldn't see before and we just have to live with it. The trees grow again, the buffer will be back. If PPL comes in again, that's a different story, but when Mother Nature takes them down, they are going to stay down. Ms. Ferguson said one more thing she's going to repeat as you weren't at the last meeting. She used to be on a ZHB. She walked the property that was coming to a hearing before that hearing, so she had a visual of what she was going to be looking at on paper. She can't say that anybody on that ZHB did if they believed the conditions that were represented before they voted. What they are asking you to do is take some time to make an educated vote, come to the property, grant the extension as a good future neighbor, it's not a lot to ask. Christmas is coming.

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Mr. Kern said he sympathizes with everything you've said, but that's not what we're here for tonight. We're here to approve or disapprove the site plan approval if it has not met the ordinances and it's met the ordinances and then above and beyond with the extra buffering and fencing.

Mr. Kern said the issue before us is not about the buffer. It's about the site plan and whether the site plan meets the Township ordinances and conditions, and it does, and then some.

Mr. Maxfield asked Attorney Treadwell to explain what we can do, what we can't do, what we are obligated to do. Attorney Treadwell said we are reviewing the site plan to make sure what's shown on that site plan complies with the conditions contained in the rest of the zoning ordinances and any other ordinances you may have that is applicable to this type of a use. As was stated earlier, the use in this specific case was approved by the ZHB. That is not the usual course of action that we see. In this specific instance, it was. On June 18th, the ZHB granted four or five different variances. The biggest one being the use. Your zoning ordinance requires that a site plan be filed by any applicant who wishes to build a cell tower to show that the rest of the ordinance provisions are met. That site plan then gets reviewed by all of your professional consultants. It goes to the Planning Commission so they make a recommendation, then it comes here for this Council's final approval. The time deadline that we are operating under is created by the Municipalities Planning Code. It gives us 90 days to act, and that deadline expires on December 31, 2012. Ms. Durso said it already expired and they gave an extension.

Mr. Maxfield said he knows this was said at P/C, and his wife will tell you he sympathizes also when there's something outside that he has to look and it drives him nuts. He doesn't think it's a wonderful for his quality of life, and he sympathizes with yours being affected. If someone would give him a chance to comment on something like that, he would take it. That chance for the neighborhood was during the ZHB deliberations. He doesn't know what happened to the neighborhood. They chose not to respond or whatever. People that got letters did not show up. That was the time, so we're now at the point where we can't deliberate. The tower is going to be there. The P/C tried its best to deal with what they could, what was existing. That woodland buffer that everyone complains about, we have absolutely no control over that. That was an extra. We can do things like if we have conditions of approval and PPL is cutting down our conditions, we can do something about that. He intends to make a direction to our staff to contact PPL and discuss those issues as soon as we're done with this vote. That time has passed. It's hard to realize that when you know you're going to be looking at those things, but that time has come and gone. Ms. Smith said the only thing she would say to that, and she recognizes what Mr. Maxfield is saying and acknowledges at the last meeting she did receive a letter. What's very disheartening for her as a resident is that we received a letter on very short notice. Additionally, it referred to a property address of 3693 Hickory Hill Road. She would submit that a reasonably educated resident of the area would not think that 3693 Hickory Hill Road was located dead in her back yard on Woodfield Drive. If you look at a map though, anyone would think that. Based on the vague nature of the letter, she doesn't think anybody would have known what the impact of this was going to be. Once again, she says that for the record. All the rules were met, but it's very unfortunate for this community of people and she would ask that maybe better consideration being given to how things are communicated to residents in the future. This one we feel we were schnookered. Ms. Durso said the Township sends out the zoning notices. The property address is what tax assessment uses and that's what they are required by law to have in the notice. It wasn't sent on short notice. After the process, they were supposed to go to the ZHB in May, but the Township asked if they could give a continuance, so there was actually more than 30 some days until the actual hearing took place. The property was also posted on Hickory Hill Road as she personally went to the property and posted the property as close to the road she could get it and not get hit, so if cars went by, they would see the notice. They didn't post it back where the site was going to be located. Mr. Maxfield said if he had gotten a zoning notice in the mail and it had an address on it about a cell phone tower, he would have found out where that address was. That was a warning and he is sorry that you have to go through this and you will feel the way you feel if it goes up. We have to be vigilant.

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Ms. Tammy Ferguson said what can you do for us in terms of expansion? She mentioned it was told to them last time all they needed was a permit for another company to come in, add on to the compound, add another tower. How can you give us your word that you won't allow anything more to happen there? Attorney Treadwell said he didn't say add another tower. He said the new state law requires the Township to permit a co-location of a additional antennas on the same tower by a permit only. Ms. Ferguson said plus a compound so they can maintain those antennas if it was a different company. Attorney Treadwell said he doesn't know that off the top of his head. Ms. Mallo said if they increase the size of the base, then they have to come back and it requires a review. However, if they go within the existing facility, it is not. Mr. Maxfield said it's usually an addition if a co-location goes on. If it gets any taller, it has to come back and it becomes a brand new application. Ms. Ferguson said if it's a different company and they want to put another extension on to the tower with their antenna, the largest box we would see at the bottom for their maintenance purposes would be like a tool chest? Mr. Maxfield said it would occur within what is there now unless they are proposing something that they have to come back with a brand new application and then he would expect the neighborhood would be vigilant. Maybe you don't want to see another compound there, but the vast majority of times we get co-locations, it happens within the existing compound and it's a modification to the existing structure. Ms. Durso said it looks like the size of the fence compound because the ordinance requires the parking within it and the only space left for a utility cabinet size, not an equipment shelter like the larger carriers have. There's not space within it. Mr. Maxfield said we even had one that utilized the same exact shelter. Ms. Ferguson said if two different companies want to come and put antennas up, they need two different boxes. One is already installed within the compound, then the second box would have to go outside and they would need a permit or they would have to come back for a variance? Mr. Maxfield said only if it violates the compound size. Ms. Mallo said if the size of the compound increases and then there's a calculation to a significant change, it's 20% of the height, then they need to come back in. Ms. Ferguson said how do we put moratorium on an expansion of that compound? Attorney Treadwell said he doesn't like to hear the word moratorium as it brings bad things. Ms. Ferguson said how do we assure there's not expansion of the compound? Attorney Treadwell said he doesn't know that we can do that. Ms. Durso said she thinks it would be a conditional use. It would be before this group for the approval of the use as opposed to the zoning. Attorney Treadwell said this group or a different group 15 years from now. He can't guarantee that it will never happen. Mr. Maxfield said that's not going to hold arrays and arrays of antennas. It's got a weight limitation. It's probably not a real scenario to think more than one co-location could go on that monopole. That would be his unprofessional guess. Ms. Ferguson said if someone comes along and wants to add something which would cause expansion of the compound, what recourse do we have? Attorney Treadwell said he doesn't think we can answer that question with any type of certainty tonight until we see what that new application looks like. It would depend, as do most zoning and submission and land development applications on what the application asks for. Mr. Maxfield said he thinks what she's look for right now is it's not a permanent situation if they want to expand the base of the compound. Attorney Treadwell said it would in all likelihood be something different, more involved than just a permit application. Ms. Ferguson said would it require a hearing? Attorney Treadwell said he doesn't know that. He can't answer that question at all. Ms. Ferguson said you're not protecting us at all. Attorney Treadwell said those are your own words, not ours. That is your opinion. What he's saying is that depending on what the application looks like, you have to deal with what comes in at that time. He can't guarantee that the Commonwealth of PA is going to pass a law six months from now that says, guess what, now the cabinets are permits only. We don't know. Ms. Ferguson said that's the Pandora's box that you've opened for us. Mr. Maxfield said no matter what we do tonight, it's already opened. Ms. Ferguson said open it in your yard. Mr. Maxfield said everything we're talking about, the setbacks are here to protect the public from impacts and we're doing the best we can within the federal guidelines of what is allowed. Mr. Kern said it's time for a vote.

SECOND BY: Mr. Maxfield

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

ROLL CALL: 3-2 (Mr. Willard and Mrs. deLeon – No)

V. TOWNSHIP BUSINESS ITEMS

A. IESI BETHLEHEM LANDFILL – TOWNSHIP TECHNICAL CONSULTANT COMMITTEE RECOMMENDATIONS

Mr. Kern said Jim Birdsall from the Township Technical Consultant Committee will discuss concerns regarding landfill activity which they are recommending be forwarded to PA DEP.

Mr. Birdsall said the Technical Committee meets quarterly. They review all the paperwork that's transpired and also hear reports from the inspector on their monthly meetings that they have directly out in the fields and they get to look at photographs also. With the help of the other consultants, they look for any violations or possible approaching violations. They look for any poor practices that may come to their attention or practices that are not poor, but maybe could be improved. As part of that process, we periodically ask Council's permission to forward comments and questions to the DEP. We're making one of those requests now. He thinks it's been probably a couple of months, maybe even about a year since we asked the last time to have you forward a letter to DEP. We drafted a letter and is subject to whatever changes you would like to see. It's dated December 13, 2012 in a body of another letter that we've sent to the Manager. The two basic issues are surface air quality, that's the air right over the surface of the landfill that's operating at a level of methane that we think is higher than it should be. The other area of concern is the LMC #8. You've heard us talk about that for ten years. That's the leachate collection system. There were exceedances of allowed flow reaching that collection system over the years. DEP and IESI have worked together to cure that problem. They've cured quite a bit of it especially in LMC #7 and they've reduced the flow to LMC #8 through repairs they made to the liner and different grading on the surface. LMC #8 is still exhibiting exceedances to regulatory levels of allowed flow. We're asking that the matter be more aggressively attended to between IESI and the DEP. In particular since now that particular flow or drippage of water is showing signs of leachate rather than signs of it being more of rainwater characteristic. Those are the two issues.

Mrs. deLeon asked if Mr. Birdsall could expand a little more on the exceedances of the methane.

Mr. Birdsall said as the waste is put into the landfill initially for the first five to eight years, it's digesting itself and as it digests itself in an area that has very little oxygen and atmosphere, it throws off methane and methane is an air pollutant. When it accumulates in a certain area, it can be flammable or explosive. We're not talking about any accumulation of gases that are dangerous in that respect, so it's not a health concern from people walking around in the landfill. It's not an explosive problem for people walking around in the landfill. It's more of a air quality issue of methane getting into the atmosphere. What are the design characteristics that prevent that from happening? The design characteristics are as soon as the day is over with filling, the landfill covers up the area with dirt or some sort of a cover to minimize the amount of gas escaping. As the layers of the landfill go up, there's a much thicker soil layer that's put on the top and a cover that's put on the top which is actually an impervious fabric cover and there's soil put on top of that to protect that from ultraviolet deterioration as the years go by. Within that whole complex of waste, there are pipes and conduits put in by the landfill as they go along to collect gases and move them to a bigger pipe and a bigger pipe and then a manifold and these manifolds come to the surface of the landfill with what we call wells. It's a pipe that comes up through the well and through the surface of the landfill. Those are all connected together and an evacuation system is put on those to draw the methane off the landfill and they actually use it when the generators are working next door and they use it when the generator is not working. It's released to the air through the flare and the flame burns it. Burning of the methane takes it away from being an air pollutant that would affect not the people in the site, but people in NJ and around the world with warming of the atmosphere. It's one of the many sources of methane. We hear about cows in the field creating methane, well, this is another source of methane that's trappable and some reasonable efforts can be made to eliminate it. Part of that elimination is the vacuum and flare system. The level at the ground which they measure for air quality in this particular instance is 500 parts per million of methane. If you exceed 500 parts per million of methane, you don't violate a state law or a regulation, so it's not a

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violation, per se by itself, it's something called an action level. An action level means that if this is experienced on a regular basis or identified by the landfill people or the DEP inspectors, an action level means that the landfill operator should take actions to put more collection pipes in, put more packing around the wells if that's where there's some exceedances of the 500 parts per million and you see through the history of the monthly reports you get from them and DEP exceedances occur and then in a day or two once they are identified, they are cured. The landfill does take action typically to address that as they find them. They do take action and are generally in compliance. They did have a major exceedance that did generate an NOV in 2010. We don't know whether or not the continuing multiple exceedances we see now are subject to an NOV, and that's one of the questions in our letter. The other concern in the letter is that we would like, as a consulting group, and the Township is due on a public participation level, to have information about these exceedances as quickly as DEP and IESI do. Whenever there is a report given from the DEP to the landfill or the landfill to the DEP, the Township should be getting copies. There was a series of reports back in the summer that indicated exceedances our Technical Committee did not know about when we met with the public in a session a couple of weeks ago. We were a little bit concerned that we're not on the radar screen with some of the communication and we would ask that both DEP and IESI be more intentional about keeping the Township in the loop. The actual report that triggered this concern was dated August 16th or at least that's when the data was collected and it was actually DEP report that the issued to IESI that we didn't know about. IESI knew about it, so they should have let us know, but DEP should have let us know in the first instance.

Mr. Kern said the purpose of this letter to DEP is it more for the reporting aspect? Mr. Birdsall said there are two aspects. The very first paragraph is for the reporting. Mr. Kern said the August 16th report is online. He went and looked at that report. It indicated there were some exceedances on some wells and five days later there was a report next to that online and it was fixed, so that's five days it took to fix those problems quickly. Mr. Birdsall said they are fixing them quickly, he agrees. Mr. Kern said what is the purpose of informing DEP of something they already know and it was probably discussed at the landfill committee meeting. Mrs. deLeon said no, it wasn't. It was not in September. Mr. Kern said whether it was or wasn't, his point is that you are asking DEP to respond to something that's been corrected which they did in a very timely fashion. Mr. Birdsall said the response was very timely and the correction was timely. That's the least important thing in the letter, but it's just kind of a housekeeping issue. That report was generated by DEP, so why weren't we made aware of it so we could follow through, bring it up at the next meeting to see if it was cured and find out yes, it was cured. It's kind of housekeeping. Mr. Kern said if the letter was more to the tone of you report well on other facets, we'd like to see some improvement on this too, as simple as that. Mr. Birdsall said exactly. That's the first paragraph. The second is whether or not DEP would be issuing another violation. Mr. Kern said you said earlier there's no violations issued when the level of 500 parts per million is exceeded. Mr. Birdsall said correct. Mr. Kern said then why would they issue one? Mr. Birdsall said for the repeated nature of the violations. He thinks they have the ability through their permitting procedures to take some action to preempt the violation for the exceedances from occurring in the first place. Maybe a repeated exceedance of 500 parts per million is a sign of poor housekeeping. He doesn't want to say it that way, but things the landfill could pay more attention to on a regular basis. One of the major concerns about a landfill is that they don't pay attention to the detail. He's not saying this landfill, he's saying any major operation. You are dealing with manpower. You are dealing with budgets and maybe they are not going to heal that particular event today because the three people that do that are normally busy with something else. We're wondering if DEP is reaching that level of concern. Attorney Treadwell said how often does that happen? He thought when he was reading that sentence, Mr. Birdsall was talking about the reports identified in the first paragraph which were August 16th. If you are talking about will DEP issue an NOV for a number of reports on top of the August 16th report, how many other times has this occurred? Mr. Birdsall said that's a good point, that sentence should be modified. Attorney Treadwell said how many times are we talking about – does it happen every month? Mr. Birdsall said every time they check, maybe quarterly. He'll get

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that information, but that probably should be more worded toward regular exceedances or repeated exceedances.

Mr. Maxfield said what PPM do they issue an NOV for, like one well, at what point do you get an NOV? Mr. Birdsall said he doesn't think they would issue one for one well. He thinks they are more concerned about the aggregate public health in the neighborhoods. If the smell is offsite or if gas starts to get trapped in somebody's house as we think that's what happened one time. They came down pretty hard on IESI. It was extreme. These are not extreme at all. Mr. Maxfield said the 500 is a kind of a checkpoint where they are basically told there is something going wrong and it needs some sort of treatment. He's thinking of the size of 500 ppm. It can't be anywhere near a dangerous level. Mr. Birdsall said it's not near a dangerous level. 50,000 is a dangerous level. Mr. Maxfield said that makes him lean towards what Mr. Kern said, we're telling them something that is a regulatory thing that they know already. He doesn't know if we should be taking up their time letting them know something they know already. Mr. Horiszny said let us know when you know that. Mr. Maxfield said that we do need to know. During the big meeting, he asked you to let him know about severity and this is exactly what he's talking about. He wants to know that the 500 ppm is just small trigger and not a dangerous situation. 50,000 might be a flammable situation, but not 500 ppm. Mr. Kern said and a situation that was corrected immediately. He's a little concerned about sending a letter to DEP where it's like crying wolf so that when something serious does come up, they'll say here's another letter from LST. Mr. Birdsall said that's why all these things get filtered through the Council. Mr. Maxfield said if we are going to build a paper trail, it should be built on real concerns, not informing that we know that they know that we know. Mr. Kern said the critical thing is the quicker reporting requirement. If there was some way to let DEP know that wasn't as well handled as it could have been. The Landfill Committee would like to get the reports in a more timely fashion.

Mrs. deLeon said why don't we just send a letter to IESI telling them we'd like to know these things a little bit sooner. If you recall, at the October 3rd meeting when we had the exchange of information, she point blank asked the landfill about three inspections that occurred on air quality from August. She said she noticed there were three of them. They said they were routine and they hinted around about the air quality permit and said they were looking for records, then after the October 3rd meeting, we get reports dated mid-October that they had these exceedances. Why couldn't they tell her that? They knew they fixed them. They had the opportunity to say we fixed them, and they didn't. Mr. Maxfield said they did say it was routine and sounded like 500 ppm is routine. Mrs. deLeon asked Mr. Birdsall to go over the chart that was discussed at the meeting and show the 12 wells, the ones that they got fined for in November 2010, some of the August 16th testing was three times as high. Some of them were new, is that important to go over? If Council cares about the 500 ppm, we have a lot that are well over that amount. We have 900, 960, 3500, 2700, 1467, 2200, 8000. Mr. Maxfield said none of those get near 50,000 which Mr. Birdsall said is the dangerous mark. How can it be his opinion that 8,000 is not the same as 50,000? Can you explain that? Mrs. deLeon said you don't have to explain that as it doesn't matter anyway. She looks at this as the gas isn't being controlled significantly at the site. That's her opinion and it's over the 500 ppm limit. She's a little annoyed with IESI that they haven't kept us informed. They said they do, but when you go back and months later when you get the quarterly reports and this and that wasn't told to us, it gets very annoying. Mr. Kern said this particular issue is more DEP reporting. Mrs. deLeon said it's all DEP. Mr. Maxfield said not really because it is DEP, but it's not all DEP as his understanding is that IESI is responsible for providing us with reports or things they submit to DEP. They are not required to send us reports that they receive from DEP. DEP is supposed to send us those. Mr. Kern said that's his point. Mr. Maxfield said why are we reprimanding IESI for not sending us reports which they aren't supposed to send us? Mrs. deLeon said a host agreement specifically states that they are supposed to report problems of an environmental nature with respect to landfill design, operation or necessary remedial measures. Mr. Maxfield said and they did say they had air quality issues. Mrs. deLeon said they didn't report it to us until October after a DEP letter. Attorney Treadwell said he looked at some of those online

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reports as he wasn't sure what we were talking about. He thought there was a September 20th landfill committee meeting where it was discussed.

Ms. Donna Louder, Landfill Committee liaison said she has the September 20, 2012 Landfill Committee minutes, there was 12 hits which means 12 wells were tested and found to be above the 500 mark which are red flags for the landfill which mean they need to handle it and handle it in a timely fashion. She has the report and she's not an engineer. Attorney Treadwell said his only question was that he thinks it would be incorrect for us to attempt to chastise the landfill for not telling us about it if they did in fact tell us about it. Ms. Louder said her home is one mile from those 12 wells. She would like them to tell us as soon as they know. Attorney Treadwell said he's not talking about the substance of the exceedance. He was talking about the notice issue. Mr. Birdsall said if it was discussed at the September meeting, then he is wrong in that first paragraph also because he says the Township as not aware of these exceedances until mid-October, so he would have to correct that. Ms. Louder said her note is handwritten, he can check to see if it's documented. Mr. Birdsall said he doesn't want to take up Council's time looking for that. He will research the minutes of those minutes to see if there was anything discussed in September.

Mr. Willard said what about the rest of the letter on the leachate? Mr. Birdsall said we are again focusing on the issue of changing characteristics of the leachate and asking that DEP apply directives or conditions on the operation to address this problem. Mr. Kern said didn't we send a letter in August about this very thing? Mr. Birdsall said we did. This is the change in characteristics of the water quality in the leachate. It was brought to our attention that we haven't heard of any progress since your letter went out and we thought it would be good to bring it in front of DEP. It's no longer rainfall characteristics; it may be more of a contaminant from the leachate. Mr. Kern said that's what we discussed October 3rd. They are aware of it. Mr. Birdsall said they are aware of the leachate volumes or rates exceeding the 100 gallons per minute, per acre, per day. Mr. Kern said he remembers the conversation that it was mostly exceeding during rain occurrences so they are aware of this and we sent them a letter. He's concerned about sending them another letter where they all of a sudden say here's another letter from the Township. Mr. Birdsall said that's fine as long as they presume it's leaking in along the sides with rainwater, that's different than actually having a cut in the bottom of one of the liners where leachate might be getting out. If their head is working on the rainfall concept, then dismissing it because it's rain, they may be missing a point. That's all we're saying. They should look at what that leachate looks like and determine whether or not IESI should do something about it like additional investigation. Mr. Maxfield said we're still at the point, you haven't heard anything different that leachate is showing up in that secondary zone. It's still being in the zone where it's collected and treated. Mr. Birdsall said they keep track of the leachate levels and we don't think that anything is getting below that second level, but you don't really know if anything is getting below the second level until it shows up in the monitoring wells 200' away and by that time it's in the ground. Mr. Maxfield said have we had any signs of that? Mr. Birdsall said no. Those monitoring wells are stable. They are getting good reports every month. In fact, the older part of the landfill, the east end of the landfill that's the old City section, the monitoring well water exhibits improving quality so if he can interpret what our geologist is saying, the landfill waste is kind of done its change in characteristics. It's stabilized. It's not releasing anything else and the water quality in the ground is actually improving and some of the signs of leachate are disappearing. It's near the oil tank farm. Mr. Maxfield said how long will they continue to monitor that for? Mr. Birdsall said for 20 or 30 years, but that's after the closure. That doesn't mean that in that period of time the owner of the land, whoever that might be, can't ask for relief. If they've proven to the DEP satisfaction that no further degradation is happening, they may get a release of that 20 or 30 year period.

Mr. Kern asked if there was any public comment? Mr. Dan O'Loughlin said he lives in Steel City. He wants to bring attention to the board several things that are not obvious in this report. The first every time we have an indotherm which means we have fog, the smell is unbearable on Applebutter Road. He's never heard anybody else say anything. He's never heard about it in reports. He never heard about anyone going down there when it's foggy to take a smell. That

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seems to be the case as he drives through there at night sometimes and he has to put up the windows as it smells that bad. Every time we get an indotherm, it smells and you can smell the methane. It's offsite. Mrs. deLeon said that's significant and that's why in November 2010 they got the NOV because it was off site. Mr. Kern said when you detect these odors do you file a report? Mr. O'Loughlin said no. Mr. Kern said do it. Mr. O'Loughlin said if you would like him to. Mr. Kern said that's the only way it gets reported. Mr. Maxfield said they claim they got no odor complaints at all. Mr. O'Loughlin said it's really bad. Mr. Maxfield said he smells it in the morning when he goes to work. Mrs. deLeon said what number do they call? Mr. O'Loughlin said you have to understand when the fog pushes this methane gas down, it goes into low lying areas. Mr. Kern said it's probably more the garbage odor you smell than the methane. Mr. O'Loughlin said it doesn't matter. It's condensing the gas in low lying areas. You have somebody having a house in a low lying area, they could be in potential danger. He's read nothing but bad news about LMC #8 even before this company took it over and it seems every time it rains, this overflows into the leachate. In extreme cases like the hurricane it overflows so badly that it overflows into 2 or 3 wells. The main reason he's here tonight is he wants the Board to know he's noticed lately in the past 2 week that there is a gray residue in his toilet. They have well water and he knows who he should go and talk to about getting his water tested? Is that the responsibility of the dump? Is it the responsibility of the Township or is it his responsibility? Mr. Kern said he doesn't know the answer to that. Mr. Maxfield said he's going to guess as the homeowner, he's the first responsible party although some people have gotten the landfill to test their water. Mr. O'Loughlin said that's correct. Mr. Maxfield said maybe you can convince them to test it. You made a statement earlier about leachate flowing into wells. Is that like from a report? Is it old? Mr. O'Loughlin said yes, it's from the last report posted on line last week. Attorney Treadwell said what well does it flow over into? Is that a water well? Mr. O'Loughlin said these are holding wells. Mrs. deLeon said the leachate management chamber thing. She's not an engineer either. Attorney Treadwell said is that where it's supposed to go? Mr. Birdsall said he's not aware of any overflow out into the environment. What happens is when the leachate chamber fills, it either drains by gravity and in some cases it may be pumped over to the sanitary sewer system that takes that leachate to the City of Bethlehem landfill. It doesn't escape out into the environment. Mr. Horiszny said you mean the Bethlehem water treatment center. Mr. Birdsall said correct. Mr. O'Loughlin said what is Phase IV? Mr. Birdsall said that's a section of the landfill that gets divided into various sections. They work on a cell at a time. You'll see Phase IV C or E or F, that happens to be the individual area they've either lined and they are filling in or they are capping.

Mr. Bob Wells, 2134 Saucon Avenue in Steel City said at a previous meeting they had a panel of experts, people who gave us quite a bit of information about the landfill. One of the things that he remembered about the meeting is one of the engineers talking about how the dump was like jello in a dish with saran wrap over it and it sounded so clinical and sounded like there was no way anything was going to come out of this and he's sitting here listening to a trigger level of 500 ppm and seeing reports of 8,000 ppm. That's 16 time the trigger level. If it's a wolf, let's cry wolf. He lives very close. He's not worried about the DEP spanking our hands for a letter that should be sent. If it's above the trigger level and happening on several occasion and 16 times the trigger level, we should be sending them a letter. Please don't hesitate to do that if we feel it's necessary. Mr. Kern said he's aware of that but everyone's aware of condition and it's tested and remediated and DEP is aware of the remediation. Mr. Wells said it's like whack a mole. Mr. Kern said if there was something out of the ordinary he would agree.

Rocky Viscito said he lives in Steel City. He's been coming to these meetings for months now and constantly hears about LMC #6, 7 and 8. He's curious as to when does it become a point to say fix it or what's going to go on with this. It seems like it's bad, but not that bad. When does it get bad enough to address it? He's talking about sending a letter to them saying we should address, but we already sent letters to them to address it. When is there going to be a consequence to not addressing it or not getting it fixed. Mrs. deLeon said there's no response back from DEP. Mr. Viscito said we're not going to send a letter because they didn't respond last time. That doesn't make any sense. Mr. Maxfield said we had a public response from DEP when Bill Tomayko sat here and

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said a lot about that condition. Mr. Kern said the comment from DEP was the threat level from 1 to 10 was zero. All the operating functioning conditions that are supposed to be in place are in place and functioning. Mr. Viscito said why's it on the report? Mr. Kern said that's why he's asking. Mrs. deLeon said because it doesn't meet the regs.

Mr. O'Loughlin said this is off the report that was online this week, and this is a total discharge from the leaching and this is from LCM 10 and Phase IV. A The total discharge from the leaching fields was over 2 million gallons. That's a lot of hazardous water. Mr. Kern said he's not an engineer and doesn't know if that's a lot or not. Mr. O'Loughlin said 2 million gallons? Do you have any idea how many pools you can fill with that? Mr. Kern said he needs to have DEP here or IESI to respond to that. Mr. O'Loughlin said the total of just Phase IV was over 948,000 gallons for the year. Maybe over the years it may not seem like much, but this is stuff that's been happening back since 2010. Attorney Treadwell said where does that go? Mr. O'Loughlin said thank you, I'd like to know. Attorney Treadwell said he'd like to know also, where does it go? Mr. Birdsall said it goes to the waste water treatment plant at the City of Bethlehem. Attorney Treadwell said that's water that is collected during the whatever process you call it that happens at a landfill, it's put in a pipe and sent into the treatment plant. What happens when the power goes out, where does it go? Mr. Birdsall said some of it's gravity fed. There are some systems in the landfill that are not gravity fed and they do rely on pumps. There was particular scrutiny this last time when the power went out. He's not sure if this is the first time it ever went out, but their systems are set up so they can be out of power (please forgive him if he misquotes something), but he thinks it's maybe 48 hours or 2 days, and they were out of power for 3 days. They got a generator and got back on line and were measuring the leachate levels all the time during that power outage. He doesn't know whether you got the report that Chris Taylor did. It's a very thorough report on this issue. About a week ago the whole history of that event and what IESI did in response to the event and we were very satisfied that they were very responsive and did a good job of dealing with a very horrific storm.

Ms. Donna Louder said she'd like to do her little speech right now regarding her time on the Landfill Committee. Then she's going to lead into something else. She's a lifetime resident of Steel City now serving on the Landfill Committee as a liaison. As her term comes to a close, she'd like to let you know of her experiences. As a member of this committee, she has been educated on the terminology, daily operations of the landfill, Department of Environmental Protection guidelines for landfills and the negative and positive effects of landfill has on a community. During her term, she was able to inform the community of concerns as well as communicate the concerns of the community to IESI. In closing, she would like to thank Mr. Cahalan and Council for the opportunity to serve and IESI for their open door policy. She looks forward to serving on this committee in the future. With that said, as a liaison, she spoke to a resident. She showed Council some pictures. She said the address is 2345 Ridge Drive, Hellertown, PA. Attorney Treadwell said where is that in relationship to IESI? Ms. Louder said if you go out Easton Road, and head towards Williams Township, it's halfway between Hellertown and Williams Township. It's a new development high up in the air. She ran into some friends. That's there neighbors from the landfill. They are coming and living in their yard. They have damaged their chimney until it needs repair. The owners of the property, that's their chimney that has been torn apart. They have outside cats that have been tormented by these birds. It's amazing. She has more of these pictures on her phone. These birds are coming over and walking around on their deck, the whole nine yards. It's caused so much damage to their chimney and they don't know what to do. It's not even their home. They have their own little community and they don't know what to do. She gave them IESI's phone number. She also told them she would speak for them at the Landfill Committee meeting which she did. She had talked to her today and said she was not contacted. She doesn't know how the Council wants to handle this, but this needs to be addressed. She needed to bring it to your attention. She can give you the name of the homeowner. Mr. Horiszny said he heard that vultures just do this every once in a while and one time in his own yard he experienced 13 of them and they just happened to come in and they left. Ms. Louder said she has multiple photo albums of this. This is not a one-time event. This has been going on, which she wasn't even aware of it. She

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was in the grocery store and didn't see them for awhile. She asked what they thought of the landfill. Whoa...it was like a bomb, so it needs to be handled. With the BRE plant down and not running, is this creating the problem with the methane gas being more obvious at the well sites? Mr. Birdsall said he doesn't think so. The landfill operator for many, many years without BRE, he doesn't think the one is related to the other at all. He doesn't think they would extract more gas if BRE was operating. He just doesn't know. That's a good question. Would they be more likely to have a higher vacuum if they were making money from the gas and if they are not making money from the gas, would it cost them more money to keep that vacuum going and maybe they reduced the vacuum a little bit. He doesn't know. They can certainly ask at the next meeting. Ms. Louder said BRE is sitting there idle and God only knows what's being stored in there and if a freeze comes and the pipes burst and they were processing leachate from the condensation they were getting from the gas from the landfill to create the electricity, she doesn't know what that building holds, but that might be a whole other can of words that the Township needs to address as their product is more toxic than what we are dealing with at the landfill. It's more concentrated. Mrs. deLeon said we talked about this and she doesn't want to mix it up, but she would like to talk about this when we're finished with this segment. Mr. Maxfield said the location of your friends house on Ridge Drive, is it one of the higher houses up there? Ms. Louder said they are all set up on little stages and she doesn't know if theirs is the highest or not. Mr. Maxfield said he's wondering if it's easier to catch the thermals there. Ms. Louder said they actually had one in Steel City right next door to them land on their neighbor's chimney. She was afraid to let her little dog out. It just perched up there. She never saw a bird that big. It was scary. Mr. Maxfield said tell your friend not to worry about cats as they only eat dead things. They don't go after live food. Ms. Louder said they are pretty big.

Mr. Gene Boyer said he's been listening to all the things that are happening tonight and he felt for those people who were hear earlier as you had to vote one way or the other. Maybe there would have been a way to put the gate in a different side if they would have been willing to extend it or whatever. The conversation about Jim's letter and the comments he's heard from Glenn and Tom, this is just sort of normal that these things happen and we should not report to DEP. He thinks we should. If we can let the people who run IESI and DEP sit here in October knowing that in August they had numerous and numerous times that DEP came out to check air quality, and that they were over a threshold, there is a threshold. It may not be a life threatening threshold, but it is something that causes action and they can say there's no reason for anything to happen. Everything is working fine and just sort of fluffed it off and not say that we should be having those people give it to our attention earlier than a month later. Mr. Kern said it wasn't fluffed off. The August 16th letter reported the malfunction and it was fixed five days later in another report saying it was fixed. It happens. These wells have bentonite around them and bentonite is a substance that shifts. When it shifts you get 500 PPM coming out and you have to go back out there and pack it down and it just happens. The land shifts, stuff shifts and they go out and check it. Mr. Boyer said he's not arguing that point. He's arguing the principle. The principle is you looked at one report, August 16th, how many times has it happened and what is the potential of that happening on an ongoing basis for whatever. Mr. Kern said that's what happens. That's what the nature of the wells are. The shift and they leak and you check them and you fix them. It's going to happen forever. That's the nature of a landfill. That's what these wells do. Mr. Boyer said when they peak, what do you think is a peak? Priscilla read off numbers other than the 500. Bob said it was 16 times more than the thresholds. Mr. Kern said they check it out and fix it. When they check it sometimes, it's 800 as the bentonite may be split further or it may be something else than bentonite. That's why they are checked. That's why the system is in place for it to be checked. It gets resolved. Mr. Boyer said we don't get notified. Mr. Kern said we do get notified and DEP sends us the reports. The only issue he has in this letter and what should be sent to DEP is to report to us a little quicker please. That's it. It's being handled, but we are just not getting informed in this one instance in a timely fashion. It's as simple as that. Mr. Boyer said we don't know if there were other incidences as they weren't reported. Mr. Kern said we know if they were reported, that's why they are inspected. Mr. Boyer said nobody looked at them. You didn't look at this until Jim sent this to you. Mr. Kern said now he's looking at them. Mr. Boyer said agreed? Mr. Kern said he hasn't

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looked at them as there wasn't any cause to look at them. You guys have gotten involved which is fantastic to bring it to our being more aware and now he's looking at it and realizing everything is fine. It's not like there's something wrong. This is how it functions. If there was a red flag, that would be something else, but there aren't. This is normal operating procedure. Mr. Boyer said it's normal operating procedure to have problems and have them fixed in a timely matter? Mr. Kern said they have a very low threshold of recording, so it doesn't become a problem. 500 PPM is not a problem. It's okay, here it is, fix it. Mr. Boyer said we know Sandy was a devastating event for many people, in NJ, NY and Jack had given them the okay to increase the amount of trash and debris that was allowed to come in. Do we have any idea of what the numbers were or what the number is on a daily basis what was the limit set in the agreements. Mr. Cahalan said the State gave them the approval. Mr. Boyer said prior meeting he thought Mr. Cahalan gave them approval. Mr. Cahalan said they ran it by the Township to see if we had any objections. Mr. Boyer said do we know if we had any additional volumes that they take in over and beyond that? Mr. Horiszny said 500 tons a day was what the request was. Mr. Boyer said over and above their limit? Mr. Horiszny said right. Mr. Maxfield said we had the same situation when we had 9-1-1. They took in extra trash from NY from the actual site. Mr. Boyer said is it in the agreement that we get paid for the trash that's put in there. There's a limit for each day which means there's a limit for the year. Is the increase on an annual basis or an increase on the volume that's put in there in each year? Mr. Birdsall said there's a daily tonnage limit and then there's a maximum monthly limit. Attorney Treadwell said he thinks Mr. Boyer is talking about the payment increase. Mr. Boyer said right. Attorney Treadwell said it goes up 4% a year and we get paid per ton. More tons come in, you get 4% on the more tons that come in. Mr. Boyer said there's no cap for one year? Mr. Maxfield said there are monthly caps. Attorney Treadwell said there's a cap for a year that's based on what their monthly max is times 12 unless there's a situation where they get permission from the State to bring in a little more. Mr. Boyer said we get paid that regular rate and not the rate over and above the agreement.

Mr. Kern asked what does Council want to do with this. It's a letter. Mr. Maxfield said he doesn't think we should be telling them things they know already. He agrees with Mr. Kern and the real issue here is we'd like to hear about these reports on a more timely fashion and that is something that seems the source of that is DEP and we should address DEP about that concern. Mr. Kern asked how everyone else felt? Mrs. deLeon said if that's all you want to do, she can't force you to recognize the significance of any of this stuff, but they should respond more in a timely manner because it's a hit or miss when DEP decides to go up there and test the wells. It just seems every times they do, there's 10 and 12 exceedances. You guys think it's normal operating procedures, which yes, it is, but the exceedances isn't supposed to be over 500. There's always trigger mechanisms. If that's what you want to do, for now she guesses we'll do it. Mr. Willard said what about the leachate issue, the second part of the letter? Mr. Kern said we've talked about that earlier as it was talked at the October 3rd meeting and we also sent a letter to DEP about that in August and he felt it wasn't necessary to reiterate what was stated in the past and had an explanation on October 3rd. Mr. Maxfield said what seems to be going on is the leachate and storm water changes per storm water event. He would say we send a letter. It sounds like the catch systems are operating the way they should be. It's trapped in the secondary zoned area where it does get treated, so nothing is going out in the environment.

Ms. Louder said she wanted to bring it to your attention, if we are dealing with this now with the landfill at this size, what is going to happen later on? You just said the words. This is going to go on forever. That landfill is only bonded for 30 years, that's not forever. Forever is beyond 30 years. If the DEP finds them to be good boys and girls, they are released and now it's on the Township the rest of forever. Mr. Kern said one of the discussions that occurred on October 3rd is that once the landfill is capped, there is no more leachate or the leachate diminishes. Ms. Louder said it diminishes, but not the next day. It's still there. You don't know if you are going to run into another problem now and forever. This is just her concern. This is like for real. It doesn't need to get bigger. Please don't rezone.

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Mr. Willard said he's indifferent as to whether we should send this particular letter hearing all the discussion. He used Tom's word vigilance in terms if there is enough focus on this landfill, both the current operations and their request to expand, that we did call everybody to this Council chamber on October 3rd and he thinks that we need to continue to be vigilant and if not now, if there are future occurrences, we need to state our position and not just accept that this is the way it is. Maybe what is presented here is not serious enough to bring it up again because certainly everyone knows what occurred here at the meeting on October 3rd, and vigilance is the key for us here.

Mr. Kern said the suggestion is to redraft the letter and state that reporting in a timely fashion.

Mrs. deLeon said she'd like to talk about BRE. She's been really thinking about this. She and Donna have been talking about this and it's very disheartening when they go to landfill meetings and it's not in operation. They are not in operation and they are supposed to be in operation, but that's a business thing on their side. Obviously they are having mechanical or technical issues that are stopping them from operating. She'd like to direct the Manager to look into the operations at the BRE plant. Conditions of approval were based on current regs and she believes it requires BRE to demonstrate compliance with all the performance and operation activities in keeping records. You give them a site plan approval and they are supposed to report this, that and the other thing and something is stopping them from operating. Like Donna said, who knows what has been left there when they stopped operating. Is there hazardous tanks and drums, who knows. She'd like to make that a motion to have the Manager look into the operations of the site plan.

MOTION BY: Mrs. deLeon moved to have Mr. Cahalan look into the operations of the site plan for BRE.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any comments.

Mrs. deLeon said this is kind of like the cell tower thing with the other carrier, they cut down the trees. Who's watching anybody here? Attorney Treadwell said what does that mean, to have the Manager look into the operations of the site plan? Mrs. deLeon said maybe she's using the wrong words. Attorney Treadwell said he's trying to figure out, is Jack looking into whether they met their conditions of approval? Mrs. deLeon said yes, you said it better than she did. Attorney Treadwell said that's different than why they shut down as that's not going to have anything to do with the approval. Mrs. deLeon said help her out. Attorney Treadwell said he's trying to figure out what she wants. Mr. Kern said if he can paraphrase, he thinks what is going on at BRE now, why did it shut down. Like a report on the state of affairs. Mrs. deLeon said she'd like to restate her motion. Ms. Louder said can't we have an inventory of what's in that building? What their intentions are? When are they going to restart up. They are here in our Township as a business, but yet they are just dwindling away. In good faith, they said they were going to producing energy from the landfill. They advertise it. The landfill advertises it. Everybody's going la la la, but no one is doing anything. Someone needs to make sure that if they are going to say we are here in your community, we are a business. They can't just be sitting there stagnant. Not with what they are dealing with. If they are taking methane and using condensation to turn it into electricity, the byproduct of that condensation is toxic. That is why the landfill paid that huge fine back in April because that was the product that went into the Bethlehem waste and created everybody to be evacuated and the whole nine yards. She thinks somebody needs to know what's left over in their tanks. If they freeze up and crack up and go into the ground, there are going to be major issues going on. Worse than what we have now. Somebody need to go in there and be the watchdog. Attorney Treadwell said how are we going to get in there? Ms. Louder said she'll go in there, she doesn't care. Attorney Treadwell said how are you going to get in there? Ms. Louder said she'll knock on the door. Attorney Treadwell said what if they say you can't come in? Mr. Maxfield said what if there's nobody in there? Attorney Treadwell said what if they moved? He doesn't know what happened to the supermarket over here, but they must have felt it wasn't profitable to stay here anymore, so they left. Ms. Louder said is their property poisonous to you? Attorney Treadwell said he doesn't know that. He doesn't know what they had in there. Ms. Louder said we know what's in there. Attorney Treadwell said here's his point. The big point is any business

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that operates in LST, we can call them and say what's going on? If they say none of your business, what do you want us to do about it? Ms. Louder said they are asking your permission. They went through the EAC to put up those tanks along side of the road so they can possibly try to start up. Attorney Treadwell said they don't have any tanks to put up along the side of the road. Ms. Louder said they backed out. That's what she's trying to say. They came to you and said can we do this as we want to try and start up again. Attorney Treadwell said somebody must have told them no. Ms. Louder said they backed out. We went to the meeting and then they went never mind. Attorney Treadwell said maybe something suggested to them that idea. Ms. Louder said she thinks that's what happened, you are right. Now that everybody said it's not a good idea, we need to make sure that whatever else they are doing is not a good idea either. Attorney Treadwell said that's his question. If it's not a crime and we can't use the police department with a search warrant to get in there, how are we going to get in? Someone said the fire chief could get in there. Attorney Treadwell said then we'll send the fire chief. Mr. Maxfield said when you say, what else are they are doing, what else would they be doing and why would they use it as a storage place for hazardous waste? Ms. Louder said their business stopped because a piece of their equipment broke. Mr. Maxfield said the separator. Ms. Louder said correct. Is their residual in that building? Mr. Maxfield said like lying in the lines? Ms. Louder said yes, lying in a storage tank in that building. Is there any kind of residual in that building, period. Nobody knows. Attorney Treadwell said residual what? Mr. Birdsall said he has no idea. Mrs. deLeon said several months ago we had the approval for the liquor license in the shopping center and that was discovered that was a road closure, signs missing. That was a site plan and on that site plan they said you had to mark the roads. The Township contacted them. They didn't respond. Second notice went out. We approved the site plan for BRE. You had conditions listed from B&J, Hanover Engineering, and they had to do this and that. They are not doing it. Attorney Treadwell said that's a different question, are they meeting their conditions of approval. Mrs. deLeon said you guys make it really hard. Attorney Treadwell said no, he's trying to get an idea of what you want. Ms. Louder just said she wants someone to go in there. Is that what you want? Ms. Louder said she wants to know if that property and that business is environmentally safe. Is there something stored in there? What are their intentions on what to do with it? This is the stuff that contaminated the Bethlehem Sewage Treatment Center and caused an evacuation. If the pipes freeze and it cracks open and that stuff comes out, how would you feel about that? Mr. Birdsall said if the Zoning Officer could look at the conditions of approval and see if the site is okay, that would be step number one. Step number two would be the friendly phone call to BRE and ask them what's going on, are there any pipes there subject to freezing and can we stop by and take a look, whatever, but do it and that's two fairly easy steps that would put this to rest. Mr. Maxfield said maybe we want to check with the fire chief as there may be an existing list of what's in that building that we don't know about. Mr. Birdsall said yes and they probably had MSDS sheets. Mr. Maxfield said that would be Steel City Fire Company that serves that? Ms. Louder said check with Mr. Barndt, he would know. Mrs. deLeon said what would cover her motion with what was just talked about. Attorney Treadwell said what he was trying to avoid was a month from now coming back and saying we looked at the approvals and here's what we found with the approvals. We called BRE and they said thank you for your inquiry, but we don't have an answer for you. He doesn't want to come back here and say nobody followed your motion. He just wanted to clarify that if they say after we make the friendly phone call to ask them what's going on, thank you very much, but we're not going to tell you. He doesn't know what else we could do. Mrs. deLeon said the first thing you do is start at the approval process. We gave them approval. There were lists of conditions, why don't you start there? Mr. Maxfield said wouldn't they have had to meet all those conditions in order to operate at all? Mrs. deLeon said there were some ongoing issues that were listed there. Mr. Kern said could you restate what you said and we'll use that as the motion. Mr. Birdsall said that the Manager be directed to review the conditions of approval and have their staff check to make sure the conditions of approval are either ongoing or the initial site approvals are met and that they be authorized to reach out to contact BRE to determine what kinds of hazards may exist on the site.

ROLL CALL:

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MOTION BY: Mrs. deLeon amended her previous motion and made a motion that the Manager be directed to review the conditions of approval and have their staff check to make sure the conditions of approval are either ongoing or the initial site approvals are met and that they be authorized to reach out to contact BRE to determine what kinds of hazards may exist on the site.

Ms. Louder said if you want the Township to do this, she guesses the royalties from the methane gas being worked off from electricity will increase more dollars. Mrs. deLeon said we're not getting any more money. It's all about the money, right? Mr. Willard said if Mrs. deLeon accepts the wording for the motion, he'll second it. Mrs. deLeon said she does, but she thought Ron seconded it.

SECOND BY: Mr. Willard
ROLL CALL: 5-0

Mrs. deLeon said they received all kinds of notices from PPL, the power lines being relocated because of the landfill, this one came a couple of days ago and it talks about a petition to leave to withdraw a pleading. She needs the answer to that. Attorney Treadwell said that means they are asking to withdraw their letter of notification. Mrs. deLeon said all of this, the 66 pages of notification, they are withdrawing it. What's the process of the courts to do that? Attorney Treadwell said because they filed that originally, it will be granted. It's gone. Mrs. deLeon said her issue is she's not happy reading this and she's glad she read it. It says PPL Electric has reviewed the project with representatives of LST? Do you know when that happened? Attorney Treadwell said it didn't. Mrs. deLeon said then why is it in here? Attorney Treadwell said they made a mistake. Mrs. deLeon said they made a mistake and you worry about her comfort level. Attorney Treadwell said he called PPL to specifically ask them questions about that letter of notification and to advise them that it was his guess that Council would adamantly oppose that letter of notification and then they withdrew it. He did it in between meetings. Mrs. deLeon said they misstated the truth several times. Mr. Horiszny said why are we not on the agenda, let's get going. Mrs. deLeon said this was regarding the landfill. She will wait until later if you want. She was going to ask one more question. Could we have the Manager contact IESI and ask for copies of the correspondence dated May 10, 2011 when PHMC indicated an additional consultation is required due to potential impacts on the Applebutter Road Historic district and there was a September 5, 2012 letter from PHMC indicating potential impacts to our archeological resource and historic structures. It goes on to mention that they only talk about the Lehigh River and the Saucon Park as recreational resources. She guesses they don't know where Steel City Park is. If Jack could get those letters out, that would be great.

B. RESOLUTION #72-2012 – FIXING THE GENERAL PURPOSE TAX LEVY FOR 2013

Mr. Kern said Resolution #72-2012 has been prepared fixing the general purpose tax levy for 2013 at 4.14% and sets a tax rate for fire equipment purposes at 0.25%.

**A RESOLUTION OF LOWER SAUCON TOWNSHIP, COUNTY OF NORTHAMPTON,
COMMONWEALTH OF PA FIXING THE GENERAL PURPOSE TAX LEVY
FOR THE YEAR 2013**

BE IT RESOLVED, and hereby is resolved by the Council of Lower Saucon Township, County of Northampton and Commonwealth of Pennsylvania as follows:

Section 1: That a tax be, and the same hereby levied on all real property with the Township subject to taxation for the fiscal year 2013 as follows: Tax rate for general purposes the sum of 4.14 on each dollar of assessed valuation; and Tax rate for Fire Equipment purposes the sum of 0.25 on each dollar of assessed valuation.

Section 2: The Treasurer's Bond is fixed at Three Hundred Thousand Dollars (\$300,000.00).

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Section 3: If any provision, sentence, clause, section or part of this Resolution is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions of this Resolution. It is hereby declared as the intent of Lower Saucon Township that this Resolution would have been adopted has such stricken provisions not been included herein.

Mr. Cahalan said that explains it all. Cathy Gorman is here to answer any questions Council may have. No one had any questions.

MOTION BY: Mr. Maxfield moved for approval of Resolution #72-2012.

SECOND BY: Mr. Willard

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

ROLL CALL: 5-0

C. RESOLUTION #74-2012 – FIXING EIT, REAL ESTATE TRANSFER TAX & LOCAL SERVICES TAX FOR GENERAL PURPOSE

Mr. Kern said Resolution #74-2012 has been prepared fixing the EIT, Real Estate Transfer Tax and Local Services Tax for 2013.

WHEREAS, it is the desire of the Council of Lower Saucon Township to confirm and ratify the following assessments as provided for by ordinance, as amended, without substantial change:

BE IT RESOLVED, and it is hereby resolved by the Council of Lower Saucon Township, County of Northampton and the Commonwealth of Pennsylvania that the following taxes are hereby confirmed and ratified for 2013:

Section 1: Pursuant to Chapter 150, Article I, of the Code of the Township of Lower Saucon, a tax imposing a one and one-quarter percent tax on salaries, wages, commissions, compensation and earned income and providing for levying and collection of same and imposing penalties for violation thereof; and

Section 2: Pursuant to Chapter 150, Article II, of the Code of the Township of Lower Saucon, a tax payable by the transferor or the transferee upon transfer by deed of lands, tenements hereditaments or any interest therein, situate wholly or partly within the Township of Lower Saucon, Northampton County, Pennsylvania, prescribing the rate, method and manner of collecting said tax; and providing certain exemptions and imposing penalties, at the rate of \$1.00 on every \$100.00 of the total value; and

Section 3: Pursuant to Chapter 150, Article III, of the Code of the Township of Lower Saucon, imposing a \$25.00 Local Services Tax upon the privilege of engaging in an occupation within the boundaries of the Township of Lower Saucon, Northampton County, Pennsylvania for, and for providing for the levying and collection of the same and imposing penalties for the violation thereof; and

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the foregoing the same are hereby confirmed and ratified for the year 2013 to be effective January 1, 2013 to December 31, 2013 at the same rate as set forth in said Ordinances. And that the Secretary be directed to send notice of this Resolution to the Department of Community and Economic Development, Harrisburg, Pennsylvania.

Mr. Willard said on page 6 of 10, it shows resolved the date of December 18th, should it be changed to today's date? Mr. Cahalan said they will change it. Ms. Huhn said that is on the budget resolution and she changed it.

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MOTION BY: Mr. Maxfield moved for approval of Resolution #74-2012.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any comments. No one raised their hand.
ROLL CALL: 5-0

D. 2013 BUDGET – FINAL ADOPTION – RESOLUTION #75-2012

Mr. Kern said the 2013 Final Budget has been prepared and advertised for final adoption. Prior to budget adoption, Council will need to approve Resolution #75-2012 based on prior discussions.

A RESOLUTION ADOPTING THE 2013 BUDGET

MOTION BY: Mr. Maxfield moved for approval of Resolution #75-2012, with the conditions we voted on earlier tonight on pay raises and salaries.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any comments.

Mr. Boyer said he went on line and had a question. First of all, he understood from earlier meetings that the total budget only went up 1.25% over last year. On professional services is what do we expect when the professional services increased by over 34%, which was \$230,000.00 over last year. If the whole budget only went up 1.25%, why are all the professionals going to get 34% more? Ms. Gorman said some of those costs are from the plans and appeals account and have nothing to do with us. That particular page encompasses everything whether it be the General Fund, which is primarily what we were talking about the 1.25% increase which is what we are working on. We have special funds that are related to special projects that we have budgeted for engineering and planning reviews to finish these. That particular report encompasses everything. Mr. Cahalan said for example, for the project with the cell tower that was here tonight, any of those billed expenses from the consultants, like the solicitor, the engineer or the planner, would get billed to that developer and they would pay them, the developer would pay them. Mr. Boyer said the Township doesn't pay this? Mr. Cahalan said you are looking at a total of what the consultants received. Mr. Boyer said it says payments, 2010, 2011 payments, 2012 payments, estimated 2012, etc. The difference is 34%. Mr. Cahalan said if it's historic, it's been paid. What we're saying is it's not all coming from the Township budget. Mr. Boyer said where does it come from? Mr. Cahalan said it's coming from developers who pay the consultants to review the projects. Attorney Treadwell said when a plan like the All Wydnor comes in for review, it is anticipated there will be some engineering, planning and legal review. Those bills that are generated by the planner, engineer and solicitor's office are paid out of an account that the developer sets up. The way it's technically supposed to work is the Township pays the bill because they work for the Township, and the Township gets reimbursed by the account that's set up by that specific developer. It's not money that comes out of the Township's pocket. Mr. Boyer said where does it show up on the budget that you get paid for this? Ms. Gorman said it's not in this budget as it's not our money. Mr. Maxfield said it gets paid from the escrow the developer sets up. Ms. Gorman said plans and appeals isn't in the budget as it's our liability, it's not revenue or expenses. It's the developer. Mr. Boyer said he's going to read the heading on the page and Mr. Kern explain this to him, not these people. Payments to Township Consultants from General/Special Funds. Isn't that our money? Mr. Kern said what's the Special Fund? Mr. Boyer said where does it come into? Ms. Gorman said Special Fund is for all funds related whether it be the open space fund, the landfill fund, the historical structures fund, general fund, anything that we have a consultant which provides a service to specific projects. On the second page there's another items that is inclusive of anything that was paid to the engineers, solicitor and planner when it came to a developers fund. Those are not encompassed in our budget. Those she should not be reporting in our budget as it's not our money. Mr. Boyer said the first or the second page? Ms. Gorman said the second page. Mr. Boyer said consultants from plans and appeals account and he never saw that in the budget. That's only \$83,000.00. The difference between 2012 and 2013 is \$230,000.00 which seems like a big

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increase. If we don't have any additional things going on and we talk about the budget and it's only 1%, why do we have a 34% increase in all these services? Ms. Gorman said some of these are passed through and we receive grant funding for which is not itemized on here, such as the SEO, the landfill host agreement, some of the engineering expenses that are tied into grants that they've applied for and awarded. This is showing what we historically paid and is showing what we're proposing for because of things we're looking for in the future such as negotiations for the police contract, negotiations for the non-uniform contract. Those are expenses we don't see every year. We see them once every three or four years, but it's an increase. Mr. Boyer said who is Stevens & Lee? Mr. Cahalan said our Labor Attorney. Mr. Boyer said so the Labor Attorney, we're not paying for that, that's a pass through? Ms. Gorman said we are paying for that one. Mr. Boyer said that increase is 100%. Ms. Gorman said that's because we're not going into negotiations this coming year. We didn't have them do any work last year or not as much work. Mr. Kern said now we'll be getting into it. Mr. Cahalan said if you go back into the budget and at our budget hearing on October 24th, we did a power point that covered the increases that we anticipated in all of the line item accounts in 2013. If you go back to the section in the budget where it has the other attorney's, it does indicate what Cathy is saying. There is an increase anticipated because he will be working with the negotiations next year. Mr. Boyer said some of these people we didn't pay in 2012? Mr. Cahalan said correct. He doesn't believe we paid the Environmental Solicitor who did work out at the landfill several years ago. Ms. Gorman said Council requested a history of payments that are related to our professional consultants and they asked for that to be put into the budget, so that's what she does. We have to foresee what we could potentially be looking into, so she appropriates enough money to cover those expenses. One particular year, she may have to budget more for our Labor Solicitor as she's going into contract negotiations, but that doesn't mean we're not saving money elsewhere in the budget that we might have been able to cut or there wasn't an expense that was for \$40,000.00 that was a one-time thing which all plays into year to year which would make the budget only a 1% increase. Mr. Boyer said just for these people alone and forgive his ignorance, but if it's in the budget as a part of the pieces of paper budget that says it comes from the General or Special Funds that it potentially is going to get paid out. Mr. Cahalan said potentially, but not guaranteed. It's an estimate. Mr. Gorman said the budget is an estimate. Mr. Boyer said the estimate is 34% more than last year. Mr. Cahalan said that's because we anticipate that there will be 34% more activity in those areas where we need consultants. Ms. Gorman said last year, for instance, we doubled landfill consultants. We've been using our consultants for the landfill. It's the same premise. If those expenses are going to be incurred, then she's going to have to foresee that. Mr. Boyer said if he goes back to the landfill and look for the fees that were supposedly supposed to be charged to the consultants for 2012, he's going to throw out a number just for an example...it's \$10,000.00 and you're saying for this year 2013, you put in 34% more if you use the basis of the percentage that's in here. There's a difference, but that's where these numbers are accumulated from. The detail lines in the Special Funds for consultants or in the General Fund for consultants. Mr. Cahalan said it should give you an explanation of why there's a change from year to year. Mr. Boyer said this is an accumulation of the differences. Mr. Cahalan said go back to the budget and it will give you an explanation why it's either gone up or down. Mr. Boyer said the question is, if he goes back to the line items in the budget and look for consultants, that's what this is accumulation of? Mr. Cahalan said it is the accumulation of that plus other pass through funds that are coming from developer fees and other payments. Mr. Boyer said there's a separate page here that says monies from plans and appeals account which he would assume pass through accounts. Mr. Cahalan said he'll make another suggestion that he made before. Come into the office, sit down with Cathy, and we could spend time and walk through this whole thing and explain it a lot better than we're doing it tonight. Mr. Boyer said it looked like a lot of big money. Thank you.

ROLL CALL: 5-0

E. LOWER SAUCON CITIZENS' ACADEMY

Mr. Kern said Council has directed staff to move ahead with planning a Township Citizen's Academy. Attached is a suggested course outline and dates to conduct the Academy. If Council is in agreement, staff will begin informing residents and opening enrollment for the classes.

Mr. Willard said he is the liaison for the Council to the staff on this particular project, so he's reporting on their behalf. All the work has been done by the staff, Jack, Leslie and Diane Palik, which we should all appreciate. For all those in the audience, he hopes you are all candidates for the Citizens' Academy in 2013 where you'll have a chance to learn in-depth how we operate the government of this Township. Diane has prepared a flyer to announce this and to explain the Citizens' Academy. We have a schedule, a calendar for this and topics for each week. This will be a six-week program on Thursday nights from 7:00 pm to 8:00 pm. It will be held in Seidersville Hall next door and the schedule is as follows: On March 7th, Administrative Overview and Council. On March 14th, Finance, great chance for Mr. Boyer to come to the Citizens' Academy and spend one hour on this topic. March 21st, Zoning and Code Enforcement. March 28th, Police services. April 4th, Public Works, and April 11th, Parks and Recreation and Volunteer Groups. The registration for this will be done off-line by mailing in a form or signing at the Township office. You'll get confirmation of this and he thinks it's going to be an informative program. We can accept 25 people into the program and he hopes we'll have an overwhelming demand. There is an article for the newsletter and the Township website prepared for this and also an advertisement for Valley Voice and the Patch. For the press members in the back of the room, we'd be happy to provide you more information to publicize our academy. The tuition is free. Mrs. deLeon said thank you for all the work that went into this, and thank you to Diane, she did a nice job on it. Mr. Kern said do you need direction or motion? Mr. Cahalan said a motion approving this. It's still tentative. He doesn't want to say the schedule is exact. We want to iron this out and make sure everything is a go before we put it out to the Press and the public. If you want, you can make a motion to direct us to move ahead with the announcements of the Citizens' Academy.

- MOTION BY:** Mr. Willard moved to direct the Staff to move ahead with the announcements of the Citizens' Academy.
- SECOND BY:** Mr. Maxfield
- Mr. Kern asked if anyone had any comments. No one raised their hand.
- ROLL CALL:** 5-0

F. AWARD OF USED 2000 ELGIN GEOVAC BROOM-ASSISTED VACUUM

Mr. Kern said a bid opening for the sale of a used 2000 Elgin Geovac Broom-Assisted Vacuum was held on Friday, December 14, 2012 at 11:00 am. The Township received one bid from West Hanover Township in the amount of \$43,000.00 and the Manager is recommending Council approve the sale of the sweeper to West Hanover for that amount.

- MOTION BY:** Mr. Horiszny moved for approval to award the used 2000 Elgin Geovac Broom-Assisted Vacuum to West Hanover Township in the amount of \$43,000.00.
- SECOND BY:** Mrs. deLeon
- Mr. Kern asked if anyone had any comments. No one raised their hand.
- ROLL CALL:** 5-0

VI. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF DECEMBER 5, 2012 MINUTES

Mr. Kern said the minutes of the December 5, 2012 Council meeting have been prepared and are ready for Council's review and approval.

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Mr. Horiszny said page 20 of 28, line 19 and 20 should be “decide whether we want to send a letter saying we need comments on splitting Bethlehem Library funds next year or not”.

Mr. Willard said page 7 of 28, line 37, the word “sid” should be “said”. Page 15 of 28, line 15, the word “you information” should be “your information”. Page 23 of 28, lines 51 and 52, the word “comesup” should be two words “comes up”. Page 26 of 28, line 4, the motion should be “payment”.

MOTION BY: Mr. Willard for approval of the December 5, 2011 minutes, with corrections.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any comments. No one raised their hand.
ROLL CALL: 4-1 (Mr. Horiszny – No)

B. APPROVAL OF NOVEMBER 2012 FINANCIAL REPORTS

Mr. Kern said the November 2012 Financial Reports have been prepared and are ready for Council’s review and approval.

MOTION BY: Mr. Horiszny moved for approval of the November 2012 Financial Reports.
SECOND BY: Mr. Maxfield
Mr. Kern asked if anyone had any comments. No one raised their hand.
ROLL CALL: 5-0

VII. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

➤ Matt McClarin, resident said he heard a comment tonight and he’d like to reiterate on it. He was going to save it when all his neighbors were here, but Mr. Maxfield stated to his neighbor Rocky that we don’t mix issues around here. He thinks it was pretty clear...Mr. Maxfield interrupted and said he never said that. Mr. McClarin said don’t mix issues. Mr. Maxfield said with a laugh. Mr. McClarin said thank you. He just wants to make sure that Mr. Maxfield is aware at the last meeting about the zoning, he stated and was quoted in the Express Times article saying “Mr. Maxfield said he needs more time after a four hour presentation at Council’s October 3rd meeting where the Township’s consultant gave reports on the landfill and answered a lot of outstanding questions”. He wants to make it perfectly clear to everybody what Mr. Treadwell said that the zoning change has absolutely nothing to do with the current operations of the landfill. What you said at the P/C meeting, that mountain has charm, you’d hate to see the mountain destroyed, that has everything to do with the zoning change. The comment you made at the last meeting has absolutely nothing to do with it, and he feels that by you making this comment, it’s actually somewhat illegal. Mr. Maxfield said he’s missing what Mr. McClarin is trying to say. Mr. McClarin said what he’s trying to say is Mr. Maxfield took into account in the zoning change, the October 3rd meeting which you are not supposed to do. Is he right or is he wrong? Mr. Maxfield said the October 3rd meeting was after that vote was taken. Mr. McClarin said no, at the Council meeting when you guys voted for it to go on and not make the vote that night. Mr. Maxfield said we didn’t vote for it to go on, we voted to...Mr. McClarin interrupted and said to do nothing. You had a discussion on it. Mr. Maxfield said that’s a no action. Mr. McClarin said he had a discussion on it and this was the comment he made. He made a comment about the October 3rd meeting swaying his thinking process in the whole decision about the zoning change for Applebutter Road. That’s what he’s trying to bring up. Mr. Maxfield said the October 3rd meeting was after the decision at the P/C meeting. Attorney Treadwell said he’s read a lot of newspaper articles, some are correct, some are not. Mr. McClarin said it’s in the minutes too. You can trust him. He just wants to make sure no one’s getting the issues mixed up here. The way the October 3rd meeting doesn’t get mixed up with the issues about the rezoning. He wants to make it clear there were some comments made and things are getting mixed up and it has nothing to do with the zoning change. Thank you. Mr. Maxfield said all this says is he needed more time to think about it. Mr. McClarin said after the October 3rd presentation. Mr. Maxfield said that’s what they wrote. Mr. Maxfield said that’s what they wrote. Attorney Treadwell said is it in quotes? Mr. McClarin said

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it's in the minutes, trust him. He'll bring the minutes in when everybody is here and you'll see what he means. Mr. Maxfield said he is reading something into it that's not there. Mr. McClarin said no, you said it. Mr. Maxfield said no, he won't admit to that.

- Mr. Boyer said Mr. Kern, after the P/C meeting, and we came here and you had the discussion and so forth and you were requesting some information, is the information to you? Are you studying it? Is it going to be available that we're going to make a decision at this point of the rezoning or are we waiting for Christmas? What's the story? Mr. Kern said there's no story. He's waiting to get more information and he's gotten some information and there's no story. Mr. Boyer said how much more information do you think that you didn't get at this point? Mr. Kern said it's hard to say. Mrs. deLeon said is there a reason why the rest of Council didn't get some of that information? Mr. Kern said it's information he's getting on his own through research. Mr. Boyer said he thought Mr. Kern said he wanted the staff to give you the information? Mr. Kern said that's the information he hasn't got from Staff which he did request. Mr. Boyer said is there a timeframe for this? Mr. Kern said January would be good if he could get that information he had requested. Mr. Boyer asked Mr. Maxfield is he was going to stay with the vote at the P/C because he thinks and he'll bring this up very boldly, but the fact that all the members who are in public office here are okay, probably we'd like to have a real true balance and that is not to have conflict of interest on all of these multiple boards. Mr. Maxfield said what is conflict of interest? Mr. Boyer said one person being on multiple boards and then having that decision roll and change from one place to the next. Mr. Horiszny said give us more volunteers and they won't have to be on multiple boards. Mr. Boyer said okay, fine.
- Ms. Donna Louder said in lieu of what happened in Connecticut, maybe we can consider making sure our children in our school districts are real safe. She doesn't know how or what anyone can possibly do, but in lieu of what happened, maybe the school district can up security. It's your call.

VIII. COUNCIL & STAFF REPORTS

A. TOWNSHIP MANAGER – No report

Mr. Horiszny asked when the January meeting was going to be held? Mr. Cahalan said January 7, 2013.

B. COUNCIL

Mr. Horiszny

- He said he attended the LST Historical Society year-end party and also a coat checking fundraiser which didn't run too much profit. It was held at the Hotel Bethlehem.
- He said last night was the LSA meeting where they approved the 2013 budget and 5-year capital plan.

Mr. Kern – No report

Mrs. deLeon

- She said she saw a schedule for next year was in the Valley Voice for next year. Did Council go over the meeting schedule for next year? She was taken back as usually the list of meetings is brought to our attention. The meeting January 7th has to be advertised and first we look at it. Mr. Cahalan said did the whole schedule of meetings go out? Mrs. deLeon said EAC, Parks & Recreation, Planning, etc. Ms. Huhn said Council usually does set it. Mrs. deLeon said we didn't even have the courtesy to look at it to see if we liked it.

Mr. Willard – No report

Mr. Maxfield

- He said he'd like the staff to contact PPL. It's going to be painful to do once again, but he'd like to sit down with them and have a serious discussion on what they can do and

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what they can't do in the Township. If they are cutting down our conditions, that's something we need to address.

Jr. Council Member – Absent

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

Mr. Boyer said the first meeting for next year is not the first Wednesday, it's different. Does that get posted somewhere other than the website? Attorney Treadwell said it's in the newspaper. It's January 7th. It has to be on the first Monday of the year unless that Monday is a holiday, and then it's a Tuesday.

V. ADJOURNMENT

- MOTION BY:** Mr. Maxfield moved for adjournment. The time was 10:20 p.m.
SECOND BY: Mr. Horiszny
Mr. Kern asked if anyone had any questions? No one raised their hand.
ROLL CALL: 5-0

Submitted by:

Jack Cahalan
Township Manager

Glenn C. Kern
President of Council