

**I. OPENING**

**CALL TO ORDER:** The Planning Commission of Lower Saucon Township was called to order on Thursday, April 24, 2014 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

**ROLL CALL:** Present: John Landis, Chair; Tom Maxfield, Vice Chair; Scott Kennedy and John Noble, members; Karen Mallo, Boucher & James; Dan Miller, Hanover Engineering; Molly Bender, Lower Saucon Township Zoning Office; Linc Treadwell, Solicitor. Absent: John Lychak, Craig Kologie, Sandra Yerger, and Chris Garges, Zoning Officer.

**PLEDGE OF ALLEGIANCE**

**II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS – None**

**III. REORGANIZATION**

**A. ELECTION OF CHAIR**

Mr. Landis asked for nominations. Mr. Maxfield nominated Mr. Landis for Chair.

**MOTION BY:** Mr. Maxfield moved to nominate John Landis for Chair of the Planning Commission.

**SECOND BY:** Mr. Kennedy

Mr. Landis asked if there were any additional nominations? No one raised their hand.

**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

**B. ELECTION OF VICE CHAIR**

Mr. Landis asked for nominations. Mr. Landis nominated Mr. Maxfield for Vice Chair.

**MOTION BY:** Mr. Landis moved to nominate Mr. Maxfield for Vice Chair of the Planning Commission.

**SECOND BY:** Mr. Kennedy

Mr. Landis asked if there were any additional nominations? No one raised their hand.

**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

**C. ELECTION OF SECRETARY**

Mr. Landis asked for nominations. Mr. Maxfield moved for John Lychak as Secretary for the Planning Commission.

**MOTION BY:** Mr. Maxfield moved to nominate Mr. Lychak for Secretary for the Planning Commission.

**SECOND BY:** Mr. Landis

Mr. Landis asked if there were any additional nominations? No one raised their hand.

**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

**D. DESIGNATION OF PLANNING COMMISSION MEETING, TIME, PLACE AND DATE FOR 2014**

Mr. Landis said the designation of the Planning Commission meeting is the 4<sup>th</sup> Thursday of every month at 7:00 pm at Town Hall. He asked if that was okay with everyone.

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**FMOTION BY:** Mr. Maxfield moved for approval of the designation of the Planning Commission meeting for every 4<sup>th</sup> Thursday of the month at Town Hall starting at 7:00 pm.  
**SECOND BY:** Mr. Noble  
**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

**IV. BUSINESS ITEMS**

**A. REVIEW OF DRAFT FLOODPLAIN ORDINANCE REVISIONS**

In conjunction with FEMA's National Flood insurance program, Northampton County's Flood Insurance Rate maps have been updated. As such, the Township is required to update its Floodplain Management Ordinance by July 16, 2014.

Mr. Miller said you have a draft flood plain ordinance that was based upon the standard model that FEMA requires with additions to make it consistent with some of the flood plain regulations that Lower Saucon Township already has. They started with their model and added some of the additional items from the existing flood plain ordinance and massaged the order to parallel the structure of the current floodplain ordinance and that's what is in front of you. Since he didn't get to meet with the P/C last month or earlier, this has to be adopted by July 16<sup>th</sup> to comply with the FEMA mandate. Before it gets adopted, Council has to be ready to advertise it and before that happens; it has to be blessed by FEMA. Even though this is based on their model, without the additions to it, we have to get it back to FEMA and give them a couple of weeks to look at it, and then it can go through the standard ordinance adoption process with a deadline of July 16<sup>th</sup>. While that's almost three months out, when you start putting it on the calendar, it's very, very tight.

Mr. Landis said he did read it. Mr. Maxfield said he is aware the LVPC is going through a series of recommendations, the flood plain ordinances, and are meeting with municipal officials. He asked if Mr. Miller was aware of that? Mr. Miller said he can't speak for the whole Hanover Engineering; however, for himself he is unaware of any movement to change the model ordinance. It would seem very late in the game to do that. Mr. Maxfield said they sent out invites to people. Mr. Miller said there's a meeting to discuss what the model ordinance is and how the new FEMA maps impact municipalities. He is aware of that. He thought they were talking about changing the model ordinance. Mr. Maxfield said none of that what they are going through, Mr. Miller doesn't think they will change the ordinance at all, just responding to it? Mr. Miller said if they did, it would be unreasonable to expect municipalities to respond in time.

Mr. Landis said when you go through this, one of the things the Zoning Hearing Board (ZHB) gets involved in one of the appeal processes, and one of them, the rest is Council, and it's probably a copy of the ordinance the state already.

Attorney Treadwell said it's on page 33, Section 90-34, it actually gives variance and Ms. Mallo brought this up as well, it gives the granting of a variance to the ZHB and the BOCA Code Appeals Board which is going to be difficult as you got two bodies. First of all we have to narrow it down to which one it goes to, then the second question is, is it possible for Council to hear requests for variances. This will ultimately be a Council question when we get there. Does Council want to hear requests for variances from these regulations or do they want the ZHB to hear them.

Mr. Maxfield said the process we have now, we may be able to comment on it anyway. Attorney Treadwell said you would be able to take a position, but does Council want to have the ultimate decision? Mr. Landis said it's more of a Council decision than the P/C. He just noted that a bunch of the things Council gets involved in and then just for that one, all of a sudden the ZHB is getting involved. It's not really a zoning issue if there's got to be a change to allow something in the floodplain. Attorney Treadwell said he knows it's the standard FEMA form, but it also discusses an exceptional hardship. Exceptional hardships aren't defined, so he's not quite sure how the ZHB,

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the BOCA Appeals Board or Council would determine what's an exceptional hardship versus just a regular standard hardship.

Mr. Landis said he doesn't think it's something that the P/C has to address because it's really a Council decision.

Mr. Miller said this is set as ZHB as it was ZHB. As far as FEMA is concerned, it doesn't matter whether it's Council or ZHB. They just went with ZHB as that's the current one. As far as what you were seeing they made reference to Council, he knows they are supposed to keep track of the variances. Mr. Landis said it seemed reasonable. It wasn't like a variance or anything. Attorney Treadwell said he thinks there's a section that says Council can approve structures owned by the Township or the Authority being placed in the floodplain. Mr. Landis said the other thing is the zoning appeals on page 18 that they can appeal any action or decision by the Flood Plain Administrator. They can appeal to the ZHB. That's really the same thing.

Mr. Maxfield said the fact that it's called a variance, does that mean would we have to change the name of the appeal in order for Council to look at it? Attorney Treadwell said we'd probably call it something else to not make it confusing. There's no reason you couldn't leave it with the ZHB. It's just a question of my main concern is the ZHB is used to granting variances based on a hardship, and this refers to an exceptional hardship and he doesn't know what the difference is.

Ms. Bender said if it goes to the ZHB and you're not happy with what they do, that gets appealed to Court. If it goes to Council, does that still go to Court? Attorney Treadwell said that still goes to Court.

Ms. Mallo said the MPC, even if it's a stand-alone ordinance, flood plain issues that are normally included in zoning, can go before the ZHB. The MPC does give that flexibility to the ZHB as it is. Mr. Landis said that's for Council to decide.

Mr. Landis said according to what he reads, you can't have an RV parked in a floodplain at all ever. He understands the reasoning of somebody staying overnight in a floodplain or a week in the floodplain, but the way the ordinance reads, he thinks you can't have an RV there at all. Mr. Miller said if we can go back for a moment, this is something he did not pick up on when he was preparing this, and it looks like the current regulations have variances that go to the ZHB but in other sections it has appeals to the Council. He's looking at the current ordinance, the code of LST has a 90-18 appeals that go to Council and 90-27, variances that go to ZHB. He looks at the variances and from that basis kept it ZHB. Right now we have a nish-nash and we should probably decide one way or the other which way we want to go.

Mr. Landis said that's a Council thing again and they have to decide what they want to do. He can't see this as a planning issue.

Mr. Maxfield said what do you think about the RV? Mr. Landis said the way it reads, unless he's reading it wrong. Mr. Maxfield said it doesn't even say parked there, it just says prohibited any activity at all. Maybe we should make a recommendation. Mr. Landis said he knows what the intent of it is, but the way it reads, it sounds like you couldn't go down to the Meadows and park an RV in the parking lot because it's in the floodplain. It's a possibility that someone could park in a floodplain for a number of days, and that's something we wouldn't want. Mr. Miller said that's something that was in the model that was given to them whether or not their model is designed to comply with FEMA mandates; however, it has language in there that is not necessarily mandated by FEMA. It's very possible we can tweak that and still meet the standards even though it's not consistent with their models. That's a question we can throw back at them in worst case scenario and take it back to the existing language.

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Mr. Maxfield said is freeboard a term we used before? Mr. Miller said we use that for several different things. It refers to an elevation between a designed elevation of water and another elevation relative to that water elevation. Mr. Maxfield said he never saw it before in this ordinance.

Mr. Landis wanted to know what the recommendation should be? Attorney Treadwell said recommend approval but investigate the issues we discussed above.

**MOTION BY:** Mr. Maxfield moved to recommend approval, but investigate the issues which were discussed above.  
**SECOND BY:** Mr. Noble  
**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

Attorney Treadwell asked how much of the Township is in the floodplain? What does the map look like? Mr. Miller said it's a very small fraction, probably less than 5%. Attorney Treadwell said these 35 pages of restrictions are going to apply to some very small areas. Mr. Landis said of course.

**V. MISCELLANEOUS BUSINESS ITEMS**

**A. APPROVAL OF MINUTES – NOVEMBER 29, 2012 & OCTOBER 24, 2013**

Mr. Landis asked if there were any additions or corrections. No one raised their hand.

**MOTION BY:** Mr. Kennedy moved for approval of the October 24, 2013 minutes.  
**SECOND BY:** Mr. Maxfield  
**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

**MOTION BY:** Mr. Kennedy moved for approval of the November 29, 2012 minutes.  
**SECOND BY:** Mr. Maxfield  
**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

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

**VII. ADJOURNMENT**

**MOTION BY:** Mr. Maxfield moved for adjournment. The time was 7:30 PM.  
**SECOND BY:** Mr. Noble  
**ROLL CALL:** 4-0 (Mr. Kologie, Mr. Lychak and Mrs. Yerger – Absent)

Submitted by:

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Mr. John Landis, Chair