

**I. OPENING**

**CALL TO ORDER:** The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, April 5, 2006, 7:07 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. Glenn Kern, Council President, presiding.

**ROLL CALL:** Present – Glenn Kern, President; Priscilla deLeon, Vice President; Thomas Maxfield, Sandra Yerger and Ron Horiszny, Council Members; Jack Cahalan, Township Manager; Jim Birdsall, Township Engineer; Township Solicitor, Linc Treadwell, Assistant Township Manager, Leslie Huhn, and Jaclyn Rasich, Jr. Council person

**PLEDGE OF ALLEGIANCE**

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

<p><b>Mr. Kern said Council met in Executive Session to discuss personnel issues.</b></p>
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**PUBLIC COMMENT/CITIZEN AGENDA ITEMS PROCEDURE**

Mr. Kern said for citizen agenda items – Council operates under Robert’s Rules. What that means is during agenda items, Council will talk amongst themselves and amongst staff and the interested parties. At the conclusion of that, we open it up to the public for public comment. There is an opportunity for non-agenda items at the end of the meeting to discuss whatever your business might be. We do have a microphone and there are microphones up at the table. There is a sign-in sheet in the back of the room. Please print your name and address and email address. It is very helpful in transcribing the minutes. For those who want to receive emailed agendas, please give your email address to Diane, Leslie, or Jack or call the Township office. Please state your name and address. If you can’t hear, please let us know. Mr. Kern asked if anything was taken off the agenda this evening? Mr. Cahalan said no.

**II. PRESENTATIONS/HEARINGS**

None

**III. DEVELOPER ITEMS**

**A. WILLIAM HAYES – 2173 ROSE LANE – REQUEST COUNCIL DIRECTION REGARDING SEPTIC SYSTEM ISSUE**

Mr. Kern said William Hayes would like to discuss with Council the situation regarding his septic system that was damaged during Hurricane Ivan when a tree fell and punctured the systems. He would like directions as to what his alternatives are.

Mr. Hayes, applicant and Christopher Noll from Keystone Consulting were present. Mr. Noll said if you would all have the opportunity to see the correspondence he sent to Chris Garges, that pretty much is the synopsis of what took place from start to where we are today.

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Mr. Birdsall said the letter is very thorough and describes the situation. The dilemma we have as Sewage Officers is we aren't allowed to issue permits that don't meet the standards of the DEP. There is certain guidance given to non conforming lots. There is certain guidance given to repairs versus placement of new systems. There is some flexibility, but it's not the flexibility we feel we can take on our own when it comes to setbacks between wells and neighboring properties and drain fields that they want to put in on their own property. Basically, we support the concept of trying to improve the system the way they are. That leaves us with a dilemma if they follow DEP guidance by making the peat system as large as they can; they will be slightly into the 100 foot radius with their neighboring well. It will be further away from the neighbors well than the cesspool they have right now. Considering the system they have right now is the cesspool which has a much larger risk of polluting their own well and their neighbors well, so all in all they are very much improving the system. If you need any statements out of the DEP regulations, he has a set of those that we can share any quotes out of that. Our recommendation is that the project be allowed to move ahead on the condition that the property owner who is putting the system in, seek permission from the next door neighbor to test the well that the next door neighbor has, or at least, pay for the test that the neighbor would take just to get a background idea of what the water is on the neighbor's property. Secondly, conditioned upon this applicant entering into a hold-harmless agreement, with the township, similar to a sub standard lot hold-harmless agreement. That's the end of their recommendation.

Mr. Noll said they do have a statement on the plan regarding the indemnification, but if you have an agreement, you want to execute it for those reasons recorded – it runs with the land, and protects the township, and everyone involved.

Mr. Kern said what would happen in the event of a system failure as far as the neighbor is concerned. If the neighbor were to find in the future that their well was polluted and it was result of this particular septic field? Mr. Noll said he thinks it would be very difficult to prove where the pollution came from. You have their cesspool which is now about 60' from their existing well, his current cesspool which is about the same 60' to 65' feet and then the system we are proposing would be further away and if you would dye test any of that, he thinks what you are going to see is water from the cesspool getting in there. By design, they pretty much discharge directly into the aquifer. In this instance, they had a water table at 36", so those, both his existing line and the current one on the Riefenstahl property are deeper than the 3', so they are already discharging into that water table.

Mrs. Yerger said you said the wells should be tested? Mr. Birdsall said we are just saying that as information for all of us. If it's already polluted, then it indicates one thing. If it's not polluted, it indicates something else, but at least it gives a base.

Mrs. deLeon said what kind of test would you be doing - would you do the parameters for drinking water? Mr. Birdsall said it would not be the same as you do for public water supply. There's a recommendation that DEP has for things like nitrates and coliform bacteria. It would be a fairly inexpensive test. Mr. Noll said they'd be looking for fecals. Mrs. Yerger said she doesn't have a problem with this.

Mr. Hayes said realistically if he didn't have a problem and was just a concerned homeowner who wanted to upgrade his system, he'd come up against the same problem. Mr. Noll said if they weren't in a repair situation where he just wanted to upgrade his system, they could reduce the size by 40%. The guidance states that all attempts should be made to maximize the absorption area to the full size. They have the full 40%. They looked at all of that. We're trying to resolve this issue. Mrs. deLeon said his letter was very comprehensive. She appreciated that. Mrs. Yerger said you've been in discussion with your neighbor. You don't

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foresee any difficulties with testing the wells? Mr. Noll said they didn't talk to him about testing yet. They've been in general discussion. Mr. Hayes said he has no problem with them putting in the system they want to put in. The testing wouldn't be a problem either.

Mr. Maxfield said from a township perspective, because as you said, it would be hard to determine where the pollution would be coming from, if we are going to do a hold-harmless agreement, can we get Mr. Riefenstahl to sign the hold-harmless also since they are both 60' from the well and the township doesn't want to be responsible. Mr. Hayes said he doesn't think he would have a problem with it. Mr. Maxfield said he'd like to ask that be a condition of allowing the work to go ahead.

Mrs. deLeon said what if the neighbor refuses? Attorney Treadwell said we need both property owners so we don't have a problem going forward in the future. Mrs. deLeon said what if the neighbor doesn't sign? Attorney Treadwell said then he can come back in two weeks and we can discuss it. Mr. Horiszny said what will happen to the old system as you build the new? Mr. Hayes said it's filled in with clay and modified stone. It's totally abandoned. Mr. Horiszny said did you agree that the tile that broke could not be repaired and was part of the cesspool? It sounded like maybe you disagreed with what the state regulations said. Mr. Noll said he has a cesspool at his home, but doesn't have the same situation as Mr. Hayes does. He has his permit and is going to be repairing that shortly. The cesspool is just that, a pit, a seepage ring. He wouldn't necessarily have said it was part of the cesspool itself. It's a tile line, it was an overflow line. That's one of those gray areas. Mrs. Yerger said it's her understanding that this is obviously a definite improvement by far. She's assuming your neighbor is aware of that also. Mr. Hayes said yes. He had a discussion with the neighbor about this and the way they functioned.

Mr. Maxfield said he'd like to make it a recommendation that they include that into what they are asking for on this, with both signatures on it, and if we can't seem to get those, then go from there. Mr. Birdsall said there would be two separate agreements. One for the one homeowner and one for the other. They'd be recorded separately. With regard to whether to require a new system or just a repair, they make the call as to whether it's a type conveying the sewage to the treatment system or part of the treatment system. Once it becomes part of the treatment system, we believe that's a repair of the treatment system, whether it's a small pipe or it's a cesspool or whether it's a septic tank. If this were between the cesspool and the house, we would have made it a simple type repair, but we felt it did warrant a replacement of the system.

**MOTION BY:** Mr. Maxfield moved to make it a recommendation that they include that into what they are asking for on this, with both signatures on it, and if we can't seem to get those, then go from there.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**B. ZONING HEARING BOARD VARIANCES**

**1. MIROSLAW MICHALAK – 2020 SANBROOK DRIVE – VARIANCE REQUEST FOR RELIEF OF IMPERIOUS COVERAGE LIMITS TO INSTALL POOL**

Mr. Kern said the applicant is proposing to construct an in ground pool and associated patio and landscaping which will exceed the impervious coverage. The allowable coverage

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is 25% and they are proposing 29.8%. They are also proposing to encroach 21 feet into the required 40 foot rear yard setback.

Mr. Michalak and his son were present. He said they requested a patio and swimming pool with a variance.

Mr. Garges said there are two variances he is requesting. He'd like to install an in ground pool in the rear of his property. The one variance would be to encroach into his required rear yard and the other variance would be to increase his impervious coverage beyond the allowable. It looks like his proposal is to go from the allowable 25% to nearly 30% impervious and to encroach approximately 21' into his rear yard leaving 19'.

Mr. Horiszny said has there been any attempt to design a pool that is smaller in size and then you wouldn't encroach into the back yard setback? Mr. Michalak said he doesn't think so. The pool is 16' x 32' which is a regular size for the pool. Mr. Kern said it's mostly the impervious regulations that Council may have a concern with. Those regulations are in place so there isn't excessive runoff during a storm event such as the water would come off your property or into a waterway which may be near you which would cause problems to downstream neighbors. Every time there's an exception to that, more water is getting introduced that shouldn't be there which could cumulatively affect the neighborhood. That's where the question of is it possible to make the decking smaller. That would then bring you into compliance. You could have what you want and comply with the regulations. Mr. Michalak said he can make a smaller deck. Mrs. deLeon said it says the pool alone will add 28% which is over the 25%, then by adding the deck it would total 29.8%. Mrs. deLeon said if you add a shed, you're way over the maximum. Mr. Michalak said he's not putting anything else in. Mr. Horiszny said there is a shed which could possibly be removed and the pool size is indicated larger on the drawing than it is on the letter which is also a confusing point. The pool is listed at 17 x 33 instead of 16 x 32, so the figures aren't jiving.

**MOTION BY:** Mr. Horiszny moved that we oppose and send the Solicitor and Engineer to the Zoning Board to express that unless they withdraw their application.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**2. PAUL HOUCK – 1367 CARLS LANE – VARIANCE REQUEST TO DISTURB FLOODPLAIN SOILS TO INSTALL POOL**

Mr. Kern said the applicant is proposing to construct an above ground pool which will exceed the allowable disturbance ratio of floodplain soils, of which 0% is allowed. The applicant is also proposing to place a shed within the required side yard.

Mr. Paul Houck was present. He showed Council pictures. He is proposing to place an above ground pool on his property. He did some figures. The pool will take up approximately 265 square feet on his approximate 25,000 square feet of property. It was denied because of protected flood plain soils. He was not aware he lived in flood plain soil, but according to the map, it says they are in a protected area. He's looking for relief to go ahead with the pool which was supposed to be delivered last Wednesday. He doesn't know if the shed was on the topic. Mr. Birdsall said it was mentioned in the memo. Mr. Houck said he replaced an existing 8 x 10 shed with a larger shed and placed it in the same location as the other one. Not knowing that because it was a new structure and it was

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larger, that he should have been 10' from the property line. At one point, it's actually 2' from the property line and because it's only 3' from the corner of the house, he had to angle it. He's looking for a variance to keep the shed there. He has an in-home business and has 12' of shelving on each side of this shed which is used for storage for parts. He also would like to have the access to the shed from the driveway. They live on an unpaved road and he has a plow that he uses to plow the lane for three other neighbors. They are much appreciative of that. If he were to move the shed over 10', it's 3' from the house and would make that 8' door inaccessible.

Mrs. deLeon said when she first read this, she wondered why you didn't put it where you were supposed to. She has a question for the Solicitor. If you are replacing something, why couldn't it be right where it was. It was grandfathered to begin with, but it's larger. She thinks it should still be there. Mr. Houck said it's not over the property line. It has taken up a lot more of his yard space. The neighbors, they have no windows on the west side of their house, and they have a big bush on the east side of the shed. He would hate to move the shed as he doesn't have a whole lot of places to go with it at this point. There is a 3' diameter tree that is right behind this shed which makes it impossible to go back and over 10'. He really has no choice. Attorney Treadwell said this gentleman may be correct that it may not be unreasonable, but technically, he still needs a variance from the zoning ordinance. Mr. Birdsall said did it trigger from a small accessory structure to a large accessory structure which changed the setback requirement? Mr. Garges said in this zoning district, the required side yard is 10'. The small accessory structure less than 250 square foot is allowed to go as close as 10', so it would have changed it if he were in a different zoning district, but he still enlarged the restriction area and that's what triggered the need for the variance. Mrs. deLeon said if she had a house that burned and she wanted to replace it and wanted to make it bigger, and if it was grandfathered, now you are going to tell her she has to move her whole foundation and her house. She's trying to logically look at this. Attorney Treadwell said it wouldn't be the foundation of your existing house. It would be the foundation of the new portion that you were building would have to be moved back to meet the ordinance.

Mr. Maxfield said it's increasing the nonconformity. Is the shed on the other side of the property, and is it a new or old shed? Mr. Houck said that's an existing shed. It was there when they purchased the house three years ago.

Mrs. Yerger said this is referred to as flood plain soils. Is there a creek somewhere near your property? Mr. Houck said there is a spring. The house borders the park back here. The spring is probably 300' behind the house. He actually did go on the FEMA map this afternoon and they don't live in a flood zone. They are in a zone "X" which says areas over 500 year flood; areas over 100 year floods with depths of less than one foot. They are no where near the Black River flood zone.

Mrs. deLeon said there are two issues – the side yard for the shed and the flood plain soil. Mr. Birdsall said this is part of the amendments to the ordinance that were passed in the last couple of years. The definition and list of flood plain soils include the ones that are right in the county manual as far as flood plain soils. There are quite a few properties that are outside of flood plains, but still mapped with flood plain soils. This is one of those properties where the soil is mapped flood plain, but it's not in a flood plain by FEMA standards.

Mr. Kern asked what are the implications of that? Mr. Birdsall said the implication is that no one can build in a flood plain soil. Mr. Horiszny said with an above ground pool, can you put it on a deck and be above the soil? Mr. Birdsall said he doesn't think that would

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really accomplish what the goal of that particular section of the ordinance was. The important factor is it would not block any flooding or would not cause any additional flooding on anybody else's property, so if nothing else, it makes everyone focus exactly on this and make sure they are not in a flood plain area, and in this particular case, it's not a problem with regard to flooding.

Mrs. deLeon said if we would take no action and let the zoning hearing board decide, there are no conditions we could ask them to oppose? Mr. Birdsall said with regard to engineering, he doesn't have any suggestions on conditions.

Mr. Houck said the letter he got from the township said it appears there are flood plain soils as defined by the zoning ordinance. Flood plain soils are protected 100%. They had listed section 180.95.a.4. He looked up that particular section. No. 3 there was environmental protection standards 180.95. No. 3 was natural resource identification preservation standards. Under that, No. 4 was site plan review. It does say permit applications involving excavations less than or equal to three feet below the ground surface for the purpose of installing fences, sidewalks, driveways, parking lots, decks, patios, above ground pools, sheds, similar incidental structures may be exempt from requirements of the geological area regulations. That was in the letter and was why he was denied.

Mr. Garges said that section of the ordinance basically says you need to delineate on an application. You need to delineate the environmental features that are on your property. The exemption mentioned was for a carbonate geology area. It's an exemption they put in for structures that would have minimal impact less than 3' of excavation that they did not feel were an impact from a carbonate geology standpoint such as digging a full foundation and opening up a larger area. What he's referring to, the first section of the ordinance says in connection with any application you need to identify your resources and the second part of that was putting an exemption in from certain accessory uses and carbonate geology areas.

Mrs. Yerger said in Mr. Garges' synopsis, it states that last year is when the bigger shed was put in. It says last year he obtained permit to replace a shed with a larger shed. Her question is when he obtained the permit to put the bigger shed in last year, did it indicate where the shed was going to go? Mr. Houck said what happened was since he started his own business a year ago, they had it out with a couple of neighbors. He did have a bucket truck he parked on the side of the house. An upset neighbor called Chris complaining about the trucks. Chris came out and noticed the new structure, the truck, and asked him to move the truck. It was out of there the next day. He said the shed needed to be moved. He said either apply for a variance or get a permit and move it. On the permit, it does say the permit is valid for two years, so Chris did allow him to obtain a permit. He didn't feel he needed a permit because he was replacing an existing structure. Neighbors did call, that's what raised the red flag. Mrs. Yerger said the shed went in first and then the permits were given. Mr. Garges said he agreed to move it, so he issued the permit with the condition that it would be moved.

Mr. Maxfield said were neighbor's objections aesthetics? Mr. Houck said Chris had some miscellaneous complaints, so he wanted to come out and make sure their in-home business was compliant. He doesn't know if the shed was an issue with any of the neighbors. Mr. Garges said it was more of the intensity of the home based business that was the concern. Mr. Maxfield said if a pool were to be installed, the aesthetics of the pool wouldn't be bothering the neighbors? Mr. Garges said it didn't seem like an aesthetic thing. It was more that the neighbors were concerned that there was a more intense business than the intent of a home based business. Mr. Maxfield said he'd like to make a suggestion we take

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no action, but if it does go to the ZHB and they decide to grant the variance, that they again have the opportunity to assign a hold-harmless agreement as it's in flood plain soils. Mr. Houck said okay. Mr. Horiszny said are you still going to move that shed? Mr. Houck said as he explained, and on the drawing, it's almost impossible. He has that 3' tree in the back, and ideally, if he moved it, it would go back 10' and over 10'. At that point, it's almost in the middle of the yard. It's in a great location right now. They have a good relationship with the neighbors, east and west. The problem neighbors are south of them.

Attorney Treadwell said the answer is if he gets the variance, he doesn't have to move the shed.

**MOTION BY:** Mr. Maxfield moved to suggest that Mr. Houck signs a hold-harmless agreement.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**3. CHRISTOPHER & REBECCA CIESIELKA – 1668 WOODFIELD DRIVE –  
VARIANCE REQUEST OF REAR YARD SETBACK TO INSTALL POOL**

Mr. Kern said the applicant is proposing to construct an in ground pool which will encroach 15' into the required 40' rear yard.

Christopher Ciesielka, owner and Doug McNeil, pool builder were present. Mr. McNeil said he represents B&B pool builders. They are proposing to put in the pool which is a little bit of an improvement. It's at a flatter spot. It would break into the setback of 40' by just 15' which is a much better area for water flow through the yard and fully an additional 10' from the swale between the homes in the rear yard. They are not anywhere near the swale, they are well below it. It is a fairly larger yard and if they moved the pool, it would require cutting down a lot of trees. Now there will be no trees removed. The size of the pool is 41' long and 23' wide, 650 square feet. It's a free formed lake form, so much of the pool is only 15' wide. There is 500 square feet of decking going around it and they are well within the 25% impervious. Mr. Kern said the notes they have say the pool and decking shall not exceed 804 square feet.

Mr. Garges said since they were in, someone else had come in for a permit for additional decking which wasn't part of the pool decking, it was some walkways in between which threw his numbers off. He's going to be over now with 1,100 square feet with the 650 square feet and the 500 square feet now and the 700 square feet now that someone just got a permit for. The 804 square feet is accurate as to before they applied to that. The only permit issued so far is for the walkway type thing that is in-between the house and the proposed pool area. At the time he came in, Mr. Garges didn't know anything about what was in-between his proposal and the house which they subsequently came in afterwards for.

Mr. Ciesielka said there is a paver walkway proposed by the landscaper to go from the home to the pool which is separate and apart for the pool and the decking around the pool. There is a pool application and on the same parcel, a landscaper came with a separate application. Mr. Maxfield said total with the 804 square feet, it will stay at 25%? Mr. Garges said for this application with what's there right now. He's 300 square feet over if he wants to still go with the same proposal. He will need an impervious coverage variance. Mrs. deLeon said right now before the ZHB, is what we have in front of us, but there is another one a couple of weeks away? Mr. Garges said no, that permit has already been

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issued. Attorney Treadwell said the landscaping permit was issued as it didn't violate the impervious surface. It was not factored into this. Mr. Garges said with these things coming in, he may have talked to him two months and someone comes in the interim, he can't coordinate all of that. He just has to tell you what he has and is trying to lay that out. Mrs. Yerger said with the two applications, he would be over by 300 feet. Mrs. deLeon said by going in front of the ZHB, you will be presenting a different picture than the memo in front of us. Attorney Treadwell said unless they change the landscape application. Mr. Kern asked if they could take 300 feet out? Mr. Birdsall said it seems like this application is now at 1,100 and there may be a lot more already approved, so we should be careful about the numbers. Mr. Garges said there are 650, 500 and then there is approximately 700 which was approved. With the 700 for the permit that was granted, they have remaining 800. Between the pool and the decking, they need to be under 804 square feet. They need to eliminate 350 square feet.

**MOTION BY:** Mr. Horiszny moved to oppose it unless they can keep the pool and decking under 804 square feet or revise one of the plans or withdraw.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

**4. SAKELE BROS. CO. – SEIDERSVILLE ROAD (TMP #Q6-3-8A) REQUEST VARIANCE TO CLEAR, THIN OR RE-GRADE ENVIRONMENTALLY SENSITIVE WOODLANDS TO CONSTRUCT SINGLE FAMILY DWELLING**

Mr. Kern said the applicant is proposing to disturb 62.6% of environmentally sensitive woodlands (15% is permitted). The applicant states that the future intent of the site is to construct a single family dwelling. They are also proposing to install replacement trees.

Steve Strelecki representing Mr. Sakele, and David Tettermer from Keystone Consulting were present. Mr. Tettermer said the site we are speaking about is less than a 2 acre property at Mountain Drive and Seidersville Road. The site is almost completely wooded right now. They had a landscape architect go out and look at the site and most of the trees are considered invasive trees. For erosion purposes, they wanted to keep as many trees on as possible. There is a lot of smaller, growth there. Sakele Bros. would like to remove most of the invasive trees, put some fill on the site, regrade the site, replant new trees which are listed on the plan which are 42 new trees, and ultimately construct one new dwelling on the 2 acre site. In order to do this, they would need to disturb 1.64 acres of environmentally sensitive woodland which are woodlands on slope in excess of 80% and they would be disturbing about 1.08 acres of that which is actually less than 66%. They are also disturbing about .09 acres of just regular woodland which are not in the steep slope area which is about 52%. There is also a small area near the intersection of Seidersville Road and Mountain Drive that is just steep slopes and there would be some minor regarding in there.

Mr. Strelecki said they met with Judy Stern Goldstein about a month ago. There's a fair amount of things dumped on the site and the invasive trees have grown on top of things that have been dumped there over the years. They'd like to take those trees out and the garbage dumped there – dirt, cement, etc. The invasive ones are the ones that grow along the road, the type of tree that came over from Japan and China that grow very quickly.

Mr. Horiszny asked how the landscaping would affect the flow of water? Mr. Tettermer said there shouldn't be a significant increase in the flow of storm water. They are



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proposing less than 10,000 sq. feet of impervious surface which comes out to 0.88 acres of impervious surfaces. The site does drain directly to the PennDOT right of way to I-78. Everything would be controlled.

Mr. Kern said if we showed this plan to Judy, would she approve this plan? Mr. Strelecki said he doesn't know. What she said was if we presented a plan with replacement trees that she would look at that. That was about all the direction she gave them. He doesn't know if Judy has seen this plan. They wanted to put about \$20,000 of trees on the site. She said present a plan and she'd take a look at it. Mrs. deLeon asked who paid Judy's hourly rate? Mr. Garges said they set up an escrow account. Mr. Kern said he would suggest Judy review this before them appearing before the ZHB. Mr. Tettemer said fine. Attorney Treadwell asked the applicant if they would be willing to reschedule it to the May meeting so Judy could look at it? Mr. Tettemer said no problem.

**C. COTTAGES AT SAUCON VALLEY- MOUNTAIN DRIVE AT PLEASANT VIEW DRIVE  
- REQUEST EXTENSION TO MEET CONDITIONS OF APPROVAL**

Mr. Kern said the applicant has requested a 30 day extension in order to complete the conditions of approval.

**STAFF RECOMMENDATION  
COTTAGES AT SAUCON VALLEY  
FOR  
APRIL 5, 2006  
LOWER SAUCON TOWNSHIP COUNCIL MEETING**

The Lower Saucon Township Staff recommends that Township Council approve the request for a 30-day extension of time to complete the conditions of approval for the above-referenced subdivision as stated in the attached Hanover Engineering staff recommendation dated October 20, 2004.

This approval is also conditioned upon the Developer paying any outstanding escrow account invoices.

**Applicant's Approval of Conditions**

We hereby represent and certify that we are the Owners and Applicants of the Plan described herein. We have read the above list of conditions for approval of an extension of time to complete said conditions and we hereby accept and approve these conditions.

Mr. Steven Boell was present. He said their client tried diligently to record the plan this month, but unfortunately, issues with the LSA came up. Those issues have now been resolved. The agreements have all been signed and submitted by his client and they should be able to record very shortly. Mr. Birdsall said there are no outstanding issues. Mr. Horiszny asked what the problem was with the LSA? Mr. Boell said they wanted a utility bond. The clients had an issue with it and they added some language into the utility bond which appeased his client's lender.

**MOTION BY:** Mr. Maxfield moved to grant a 30 day extension.

**SECOND BY:** Mrs. Yerger

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

**ROLL CALL:** 5-0

**D. CLOVER VIEW ESTATES – DRIFTING DRIVE – REQUEST EXTENSION TO COMPLETE IMPROVEMENTS**

Mr. Kern said the developer has requested a one year extension in order to complete the improvements in the Clover View Estates subdivision.

STAFF RECOMMENDATIONS  
CLOVEVIEW ESTATES  
IMPROVEMENTS AGREEMENT EXTENSION FOR APRIL 5, 2006  
LST COUCIL MEETING.

The Staff of LST recommends that Township council approve an extension until April 6, 2007, for completion of the improvements at the Clover View Estates Subdivision, subject to the following conditions:

1. The developer shall enter into an extension agreement with the township satisfactory to the township solicitor and township council.
2. The improvements security shall be extended to at least May 6, 2007 to the satisfaction of the township solicitor.
3. The developer shall pay any outstanding plans and appeals account invoices owed to the townships.
4. The developer shall complete and stabilize all roadside swales by April 30, 2006.
5. The developer shall install all street signs and traffic controls signs by April 30, 2006.
6. The developer shall rectify all items noted in the Northampton County Conservation District Notice of Violation letter dated March 17, 2006, by April 30, 2006.

If Council is voting on this mater, it is requested that he council authorize the township engineer to notify the developer of the council's actions.

No one was present for this agenda item. Mr. Birdsall said they have been cited and have taken action to correct the situation that was the subject to their citation which was last week. He hasn't seen a new letter back from the county saying they are back in good shape. This has to do with lot grading, but they also wanted to encourage them to grade in their side swales. They did start that work. They do have some concerns about the extension and would want conditions put onto the extension. The list of six items are the ones they are concerned about on the staff recommendations. Mr. Maxfield said he'd like to see them square this away ASAP as they are dumping right into the headwaters of the east branch of the Saucon Creek.

**MOTION BY:** Mrs. deLeon moved for approval based on the staff recommendation.

**SECOND BY:** Mr. Kern

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

**ROLL CALL:** 5-0

**E. WILLIAM & KRISTEN KEHS -2289 SILVER CREEK ROAD – LOT LINE CHANGE TO CONSOLIDATE TWO EXISTING LOTS**

Mr. Kern said the applicant has requested to remove a lot line in order to consolidate two existing lots of 11.31 acres and 12.58 acres into one lot of 23.89 acres. There is an existing single family dwelling on this property.

Mr. Kehs, property owner, was present. He said they want to consolidate the two lots together as they are putting up a building and it ends of right in the lot line area, and the way it is now, they'd

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have to stay 50 feet back off of our own property line the middle of their own property. They'd like to erase that so they could go forward with the building. It's a two story garage and barn like a bank barn they can drive on to the second floor which is why it has to go there. The ground is perfect, it's flat above, drops off below and it's a great place for it.

Mrs. deLeon said in the future, if this was subdivided, isn't there some criteria to it? Mr. Birdsall said if there was a plan for them to subdivide, we couldn't call it a minor. That's the trigger mechanism. He doesn't think they have any plan to subdivide. They would have to start over again with their new consolidated lot plan. Mr. Kehs said it's pretty much an undividable property as it's only got 30' road frontage.

**MOTION BY:** Mr. Horiszny moved to approve.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Kehs said there is a waiver on no. 2. Mr. Birdsall said that's a pretty important condition. If you look at our letter of March 29, on no. 2, the ordinance actually requires that the contours and all the topography within the property and within 500 feet be shown. That would be an extraordinary burden on the applicant in a situation like this. The last sentence says given the nature of the proposal, they recommend this information not be required. The applicant's engineer apparently wanted to make sure he buttons up all the bells and whistles and he's asking for a waiver. We didn't even think it rose to a waiver, so they didn't make an issue of it and didn't put it on as a waiver, but certainly, if Council would like to keep the record straight, a wavier of section 145-33.c.1 and 2.

**ROLL CALL:**

**MOTION BY:** Mr. Horiszny moved to amend his motion to approve, and as stated above by the Engineer, there is a waiver of section 145.33.c 1 and 2.

**SECOND BY:** Mr. Maxfield amended his second.

**ROLL CALL:** 5-0

**F. TURNBRIDGE PARTNERSHIP – REQUEST FOR VACATION OF MCCLOSKY AVENUE**

Mr. Kern said the applicant is requesting vacation of a 20' wide unimproved portion of McClosky Avenue. Council should decide if they want to direct staff to investigate the request and offer recommendations.

Attorney Andrew Schantz, attorney for the applicant, was present. He wants to clarify, they are not requesting a portion of McClosky Avenue. This property, two parcels, are located on the north west side near McClosky and Walter Avenue. There is a 20 foot alley which they are requesting. The purpose for this is they have a subdivision plan which will be coming through the process shortly, and in order to clean things up, they'd like to have that formally vacated so that can be incorporated into those lots which would then be subdivided. Legally, the public rights are gone as it's never been opened. It's been over 21 years. Attorney Treadwell said it's not an improved portion of McClosky. Mr. Birdsall said it's not even McClosky. Mr. Kern asked what the wording would be. Attorney Schantz went up front and showed Council a map and explained the roads and the subdivision. Mr. Birdsall said if you are willing to move ahead, as the ordinance comes together, they'd appreciate a description and a plan that could be attached as an exhibit to an ordinance. Attorney Schantz said certainly. Mr. Birdsall said normally they send it on to the LSA for their review comments before the public hearing on the vacation, so subject to all those things, he doesn't have a problem with moving ahead with this. Attorney Schantz said his follow up question would be, he's not familiar with what the process is. Do you generally hold these hearings prior to a normally scheduled council meeting? Attorney Treadwell said we'd have the hearing at a

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council meeting and adopt it right afterwards. Mr. Maxfield said was Mrs. deLeon saying she wanted to make sure the two properties merged. She said she wasn't sure, but now, this upside down L shaped thing, that whole thing should be eliminated so it becomes one property, and then a subdivision plan results from that. That would make more sense. Mr. Birdsall asked attorney Schantz if they would be willing to file a merger deed simultaneously or a reversed subdivision? Attorney Schantz said they would do whatever would appease the township. It's not a problem. Mr. Birdsall said since they are coming in with a subdivision probably, maybe the hearing could be held and the vote on the vacation could be held until you see how everything pans out. Attorney Treadwell said he thinks he and Attorney Schantz could work that out. Mrs. deLeon asked about the litigation with the property years ago. Attorney Schantz said it's been transferred within the last year and a half, so he would imagine that would have been cleared up.

**MOTION BY:** Mr. Horiszny moved to authorize the staff to proceed with scheduling the hearing and it will be put it on the next available agenda.  
**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone in the audience had any questions or comments? No one raised their hand.  
**ROLL CALL:** 5-0

**G. LEHIGH GAS CORP. OFFICE – 3821 ROUTE 378 – FINAL PLAN APPROVAL**

Mr. Kern said staff is recommending that Council grant conditional final plan approval to Lehigh Gas, Inc. for the corporate office land development proposed at 3821 Route 378 per the staff recommendation prepared by Hanover Engineering.

**STAFF RECOMMENDATION  
FOR LEHIGH GAS, INC. CORPORATE OFFICE  
FINAL LAND DEVELOPMENT PLAN  
FOR APRIL 5, 2006  
LOWER SAUCON TOWNSHIP COUNCIL MEETING**

The Lower Saucon Township Staff recommends that the Township Council grant final approval to the Lehigh Gas, Inc., Corporate Office Land Development Plans prepared by Environmental Design and Engineering, Inc., Sheets 1 of 4 through 4 of 4, as revised February 1, 2006.

It is recommended that this approval be subject to the following conditions:

1. The Applicant shall address the review comments contained in the letter dated March 7, 2006, from Hanover Engineering Associates, Inc., to the satisfaction of the Township Council.
2. The Applicant shall address the review comments contained in the letter dated March 8, 2006, from Boucher & James, Inc., to the satisfaction of the Township Council.
3. A recreation fee of \$3,113.00 shall be provided.
4. The Applicant shall pay any outstanding escrow balance due to the Township in the review of plans or the preparation of legal documents.
5. The Applicant shall satisfy all these conditions within six (6) months of the date of approval of this Plan or the application shall be considered to be withdrawn by the applicant and therefore null and void.

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

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1. Section 145-33C (2) which requires that the Plan show all existing features and contour lines within 500 feet of the site. The Applicant has provided an aerial photograph which effectively provides this information.
2. Section 145-52B (2) which requires street trees to be planted within one and two feet of the right-of-way line, to allow the trees at various location as shown on the plan due to the parking lot locations.
3. Section 145-48C (2)(b) [11] which requires storm sewer manholes to be provided at changes in alignment or grade of storm sewer piping, to allow a pre-fabricated bend in a short section of storm sewer piping, which will be privately owned.

If the Council is voting on this matter, it is requested that the Council authorize the Township Manager to notify the Applicant of Council's actions.

Applicant's Approval of Conditions

We hereby represent and certify that we are the Owners and Applicants of the Plan described herein. We have read the above list of conditions for approval being considered for this application and we hereby accept and approve these conditions for the grant for approval in accordance with Article V of the Pennsylvania Municipalities Planning Code.

Dallas Oswald, Lehigh Gas, was present. He said he has the letter that was sent to them on March 29, 2006 outlining the conditions by Council and they are willing to accept all of the conditions and the letter has been signed by Joe Topper the owner.

Mrs. deLeon said can we put expiration dates in case there are issues that arise. She has issues with the format of the letter, not the conditions and it needs to be addressed. You read no. 1 and no. 2 and it says "the applicant shall address the review comments contained in the letter dated March 8, 2006. What issues are outstanding from the HEA letter? It says we have to refer to the letter. Mr. Birdsall said item no. 1 is a letter from the City of Bethlehem water department shall be submitted and the letter should state the project is within their capacity to serve. The plan shall provide sufficient detail of the proposed water service and fire protection and demand so the city can adequately evaluate the proposal.

Mrs. deLeon said this is final plan approval, so why isn't this done yet? Mr. Oswald said he submitted that letter at least a month ago and dropped it off and gave it to Molly. It was a letter from Carl Newswanger saying that they could supply the water they needed for the sprinkler system for the building. Staff could not find the letter he was referring to. Mr. Birdsall said it's a two fold comment and the plan should provide sufficient detail for the proposed water and fire service so that the city can adequately evaluate the proposal. He's not sure the city had final plans that showed where the water mains were going to be extended and how they were going to serve your property and it is final plan stage, so that needs to be reviewed by Carl and signed off by Carl even if he had a letter of capacity of availability. Mr. Oswald said he's 99% sure the site plan was submitted to Carl when he gave him the letter and it had been redrawn showing the size piping and connections and valves that were going to be used for the installation. Mrs. deLeon said we get final plan and there's tons of things that are outstanding and we can't withhold approval unless its county or state permits being held up. Attorney Treadwell said there are typical conditions which are attached to any final plan, one normally being PennDOT if there's a DEP issue. Mrs. deLeon said we shouldn't be wasting our time at a council meeting. Attorney Treadwell said it's a policy issue that's up to Council. Some of the conditions, the plans would never be recorded until the township is satisfied. Mrs. deLeon said this has been an ongoing issue with her and she keeps talking about it. This no. 1 they should have had.

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Mr. Kern said what would the implications be if the City denied the water. Attorney Treadwell said that condition would not be satisfied and the plans would not be recorded. Staff looked and still could not find Carl's letter. Mrs. deLeon said go back to the Cottages, and we have a motion in here from October 20, 2004, every condition that is listed is a bullet. It's a condition, it doesn't say refer to letters. As a Council person, when she's making a decision on a final land development and she's looking at HEA and Boucher & James letter, and it says to refer to those letters, first of all, the Sunshine law says we have to have our minutes reflect the conditions. It refers to a letter so are those letters going to be in the minutes or are we going to pull things out of the letter? Mr. Cahalan said the only concern they had when they tried to address that from the consultants was if staff attempts to transpose those letters into recommendation and they make a mistake that could be very serious. They are trying to set up a system that they refer to the actual letter as a hyper link to a pdf document later on or actually include the actual letter. Mrs. deLeon said she's been up here for 19 years and we never have made a mistake like that, have we? Attorney Treadwell said he agreed, but Jack is also correct in that this is more comprehensive in referring to the letter than it would be by trying to turn the letter into specific conditions. Mrs. deLeon said the minutes will reflect what? Attorney Treadwell said the minutes will reflect that one of the conditions of approval was full compliance with both the Hanover letter and the Boucher and James letter to the satisfaction of the township.

Mrs. deLeon said as representing residents, it is unacceptable. The minutes should reflect the conditions of our motion. Everything should be listed. She's been talking about this for a long time now, and it's not happening. She's very upset over this. It would be so much easier to go down the list and see what's here and what isn't here. Attorney Treadwell said right now we don't know if No. 1 was submitted or where it is. Mr. Oswald said he personally dropped that letter off.

Mr. Birdsall said no. 4 is basically the same item as no. 1. No. 5 is the improvement agreement and security. No. 6 is drainage easements and right-of-ways should be dedicated to the satisfaction, and they did receive survey descriptions for review so the second phrase in that is now being satisfied with regard to the descriptions. No. 7 is the open space fee.

Regarding the Boucher & James letter, Attorney Treadwell said no. 1 appears to be the same water and sewer capacity letters that we discussed in the HEA letter. No. 2 is if they propose any signs, they meet the zoning ordinance. Mrs. deLeon said she has no idea about no. 3 as she doesn't know where the August 23 letter is or the February 8 letter. She's not being given all the information to make a decision here. What's in these letters? Mrs. Yerger said you are telling us that we have never received copies? Mrs. deLeon said she's not saying that. She just wants to know what the letter says. It wasn't included in tonight's packet. This is final plan approval. Mrs. Yerger said she understands the points you are making, but if this was so vital to you when you reviewed this, you didn't pull the letters so you knew? Mrs. deLeon said we hire staff to have the preparation for our council packet. Mr. Birdsall said he has the February 8 letter and is the official letter from Jack Cahalan to Lehigh Gas citing the conditions of preliminary plan approval and attaching the list of preliminary plan approval conditions to that letter. She's basing this on policy that has been set for all these years. Somebody changed it without asking.

Mrs. Yerger said they are still asking for it, to our knowledge, that it was never fulfilled, as it was in the March 7 letter and they are still considering that an outstanding issue, so it can't be crossed off. Mrs. deLeon said she would have liked to know what they were. Mr. Birdsall said the August 23 letter is actually from the township Zoning Hearing Board Solicitor, George Heitzman, outlining conditions of the variances that were given for Lehigh Gas by variance of 12-05. Attorney Treadwell said Mr. Oswald needs to get the letter again from Carl and resubmit it again.

Mrs. deLeon said over the years she has supported and helped implement a lot of suggestions by council to try to improve things. This has bugged her for a long time. She has asked and asked,

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and unfortunately, she has to let the developer sit here while she's asking about all these things, it should be listed. We should have a check list to go down and agree to what we're agreeing to rather than to refer to all these letters. She supported all these other whims of everybody on Council and she asks for one thing and it's a big deal. It's very disappointing.

Mrs. deLeon said the April 5, 2006 conditions, the second one refers to the satisfaction of township council, and does this have to come back to us again? Attorney Treadwell said unless you want to allow HEA to say that the conditions in their letter have been satisfied and Boucher & James to say that the conditions in their letter have been satisfied. Mrs. deLeon said she's not objecting to the words, but here again we have to look at it.

Mr. Kern asked what would make Mrs. deLeon not disappointed? She said going back to how it was. Mr. Kern said how was it? Mrs. deLeon said she just showed them. Look at the Cottages. You don't see anywhere on here that it refers back to a letter dated so and so. The conditions are pulled out of there. Policy was changed by staff without Council's approval. Mr. Kern said we just heard our Solicitor tell us that we would be exposing ourselves if we continue that procedure. Mrs. deLeon wants the record to reflect her disappointment. Mr. Kern said given the fact that our solicitor has advised us, that we would be exposing ourselves if we tried to... Attorney Treadwell said he didn't say exposing ourselves, he said it was more comprehensive to protect the township by including a condition that recommends compliance with a letter from HEA or Boucher & James than it is by tying those letters into specific conditions, although we can certainly do that. When you say compliance with the letter to the satisfaction of Township Council, that's it. They either do what you want or they don't. Mrs. deLeon said she'd like that letter in the minutes. Attorney Treadwell said fine, it's in the file, it's a public document and we can attach it to the minutes. Mr. Kern said rather than having the township go through the effort of having to do it again, just attach the letters.

Mr. Birdsall said the two letters from your consultants are not missing. What is missing is already listed as a condition that they must provide it. Nobody on this side of the table is even aware that the water letter came in, so it's still an obligation on the developer's part to get another copy. Mr. Kern said let me rephrase that, he meant not attached to the current documents that we are looking at. Mr. Birdsall said they are in the agenda packet except the second level of letters. Mrs. deLeon said we don't have all the information. Mrs. Yerger said this is a synopsis of what Judy is talking about, the waivers that were granted by township and it's the variances that were granted by the ZHB and that's what Judy was talking about in those letters. Mrs. deLeon said it describes it, but the variances before you tonight, look at all the information you learned from Chris's memo as opposed to just a line item.

Mr. Kern said he'd like to go on record saying the only thing missing were those two letters in the packet and if the two letters would have been here, then Priscilla wouldn't have been unhappy. Mrs. deLeon said she still wants it bulletized. We can move on, she's tired about talking about this.

**MOTION BY:** Mr. Horiszny moved to approve.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**H. BETHLEHEM RENEWABLE ENERGY – 2335 APPLEBUTTER ROAD – SITE PLAN AND PRELIMINARY LAND DEVELOPMENT APPROVAL**

Mr. Kern said staff is recommending that Council grant preliminary approval to the Site Plans and Preliminary Land Development Plan for Bethlehem Renewable Energy.

STAFF RECOMMENDATION FOR  
BETHLEHEM RENEWAL ENERGY, LLC  
SITE PLAN AND PRELIMINARY LAND DEVELOPMENT PLAN  
FOR APRIL 5, 2006  
LST COUNCIL MEETING

The LST staff recommends that the township council grant preliminary approval to the site plans and preliminary land development plan for the Bethlehem Renewable Energy, LLC gas to electric facility proposed to be located on the IESI PA Bethlehem landfill corporate site at 2335 Applebutter Road as shown on the plan sheets 1 through 14 of 14 dated various dates up to March 6, 2006 as prepared by Blazosky Assoc., Inc. and various supporting documents including but not limited to:

1. Waiver request letter dated February 13, 2006, revised March 10, 2006.
2. Storm water management plan (dated November 2005, revised March 2006)
3. An Erosion and sedimentation pollution control plan dated November 2006, revised March 2006.
4. A project narrative dated May 2005, with a revision date of March 2006.
5. A preparedness, prevention and contingency plan dated March 2005, with a revision of January 2006.
6. Notice of intent for coverage under the general (PAG-2)) HPDES permit, signed March 21, 2006 and various letters to other agencies.

It is recommended that his approval be subject to the following conditions:

1. The applicant shall address the review comments contained in the letter dated March 28, 2006 from HEA to the satisfaction of the townships council.
2. The applicant shall address the review comments contained in the letter dated March 27, 2006 from Boucher & James Inc. to the satisfaction of the township council.
3. The applicant shall pay any outstanding escrow balance due to the township in the review of plans or the preparation of legal documents.
4. The applicant shall satisfy all these conditions within six months of the date of approval of this plan or the application shall be considered to be withdrawn by the applicant and therefore null and void.

It is also recommended that the Township council approve waivers from the requirements of the following subdivision and land development ordinances (SALDO) sections.

1. 145.33.B.1 – requires that the drawing scale must be a minimum of 1" = 100:
2. 145-33C (2) requires that the plan show all existing features and contour lines within 500 feet of the site
3. 145-36B, C and D and 145-45A and B requires, roadway improvements along Applebutter Road.
4. 145-44.D(1) required (24) feet in width for two way nonresidential driveways (16') is provided.
5. 145.B(4) © (d) and 145.C 91) (i) (6) ( C ) requires detention basins to be designed with one foot of free board in the two through the 25 year storm ).75' is provided and required 4:1 interior slope (3:1) is provided and requires a minimum 3" orifice outlet (a 2" orifice is provided).

Attorney Jim Preston and Dennis Dobry, Project Engineer were present. Attorney Preston said they are not here for final plan approval. They have the condition letter and it is signed by Mr. Foster on behalf of the applicant.



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Mrs. deLeon said can somebody explain the review comments that are contained in the letter dated March 28, 2006? Mr. Birdsall said there are some things where the applicant has actually asked for a waiver. No. 1 they are asking for a wavier on the scale because of the size of the property. No. 2 they are asking for a waiver of detailed topographic information, 500 feet around the site should be shown. No. 3, is a highway occupancy permit must be provided when it's available. No. 4 is that the application for service approving availability of capacity and intent to provide public sewer and public water was provided by letter dated December 21, 2005, that's a closed condition. No. 5 is Northampton County Conservation District approval as an open item. No. 6 is that the developer is asking for a waiver of road frontage improvements along Applebutter Road for the frontage that they are going to be improving. No. 7 they are asking for a wavier for the width of the non residential driveway from a minimum of 24 feet for two way traffic to 16 feet. No. 8 they are asking for a waiver of the one foot free board above the maximum water surface elevation for the 2 through 25 year storm. The applicant is proposing .75 feet rather than a full 1.0 feet. No. 9 they are asking for a waiver to the minimum orifice size. They are proposing for a 2" orifice to meet their relief rate goals. They are incorporating some best management practices also. The ordinance says a minimum of 3" in diameter. No. 10 they are asking for a waiver of the interior side slopes of their basin from a 4 to 1 slope to make it a little bit steeper and to allow a 3 to 1 slope. This is in an area which would be totally managed and maintained by the applicant. They have proposed a rail fence around the outside and that will allow the footprint of the basin to be a little bit smaller to stay out of a wetland area. No. 11 they are offering a maintenance program for their storm water management project and we are asking that a condition be imposed that a separate legal covenant describing that with the owner's requirements and responsibility be provided to the satisfaction of the township solicitor. The next one is that the NPDES for the storm water permit will have to be provided. The fire protection issues should be addressed and there is a separate memo that has come in from the EM coordinator. No. 2 that the cover sheet deed book information and tax parcel ID number be provided and corrected. It should be P7-5-33. No. 3 that the applicant must satisfy the LSA with regard to all their concerns including, but not limited to entering into a cross easement agreement prior to final plan approval.

Mrs. deLeon said a question with the waivers, the regs say you are supposed to explain why you needed the waivers. Was that done? Attorney Preston said yes, there is a separate letter describing all of that. Staff has read it and they concur. Mrs. deLeon said the EMS coordinator, she didn't see that letter. Mr. Cahalan said it has come in, but has not been reviewed by staff yet. Mrs. deLeon said the host agreement they have with IESI has in there language that the City of Bethlehem is to provide fire service to the site. Has the city been contacted? Attorney Preston said this is Denny Dobry and he can address this. Mr. Dobry said they sent a copy of the contingency plan to the city as well. They haven't had a response back yet.

Mrs. deLeon said the other issue is the city has its own 911 plan and the county 911, so we have two different entities, and over the years, every now and then the landfill checks with the county by calling in advance and doing a test call. Every now and then that gets switched from the city to the township. There were reasons why we had to make sure the city would have responsibility for any fire fighting. That would include their site, so we need to make sure they understand their responsibilities. Attorney Preston said understood.

Mr. Birdsall said the Boucher & James letter, it is dated March 27, 2006 that is regarding the preliminary plan. It talks about the uses as being acceptable for this area and it was a special exception use. They picked up on that and today asked that the ZHB opinion be placed on the desk this afternoon and it was distributed this afternoon. He does have a follow up comment on that. A recommendation that the conditional approval be amended from the draft that was issued last week to the applicant and add some specific language that the special landfill consultant for air pollution has recommended to be incorporated into tonight's motion. The October 25 letter from Attorney Heitzman should be on your desk. As you may recall, this went before the ZHB on October 24.

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There were many issues reviewed, but the three that were most dramatic were summarized and there hasn't been an appeal from that decision, so they are accepted conditions from the applicant. One is relating to noise, and it's very specific. One is related to what would happen to the BRE facility if and when they run out of landfill gas to use as a fuel, and impose as a requirement, to abandon the operation and the on site equipment be removed. The third condition was related to air pollution compliance testing and it specified some language about how frequently the air quality testing would be done from the stack and made a general reference to the criteria, but it was presumed at the October 25 hearing that by now we would know what DEP was opposing in the way of those compliance tests. We have not had information as to what the DEP has imposing, so there has been some correspondence in March and February between BRE and DEP that's been reviewed by our special consultants and he's summarized in a memo dated April 5, the recommendations of that special consultant. Mr. Dobry and Mr. Preston may not have had a chance to look at them as he just got them this afternoon. The one is just to confirm that they'll do any testing required by DEP and protocol by DEP. No. 2 is emission testing measurements of destruction of efficiency, and concentration of NMOC. No. 3 is the measurement of particulate matter. He can't explain what all those are, but he went over it careful with Lou and that language is the language he recommended, so Mr. Birdsall is passing that along as a recommendation for this evening.

Mrs. deLeon said she doesn't have a problem with that or do we have to refer to a letter? Attorney Preston said we did get Jim's letter late today. The zoning opinion that Jim is referring to is dated October 25, that's over five months ago and states the conditions that essentially came out of an accommodation that we reached with the township where they provided at our cost. We also provided an air quality study, again at their full cost. The special air quality consultant was at the zoning hearing when this matter was heard. The condition, while it's redundant to include it as a condition here, they are perfectly happy to do it here and are bound by it whether they agree to it here tonight or not. Mrs. deLeon said the reference to the ZHB should be in this letter. Attorney Preston said if the township is going to respect the combination we had and we came to in terms of the ZHB, then he doesn't see any need to modify it with this additional language. He doesn't know what an NMOC is. Attorney Treadwell said you have no problem with the condition that you need to comply with the special exceptions condition as your client needs to do that anyway. Attorney Preston said no problem. Attorney Treadwell said your issue is with the April 5 letter that may or may not modify those conditions, but he's not quite sure what those issues are. Mrs. deLeon said what she remembers is the regs say they have to go to the ZHB, but then they have to come back and do a site plan. There's certain issues on a site plan that have extra provisions that need to be addressed, where the noise and all those other things come into play. Attorney Treadwell said this is technically a different situation as it's not a conditional use. They have their special exception approval from the ZHB with specific conditions that they must comply with or this special exception use doesn't exist. The site plan approval is combined into the application that is before you tonight for preliminary approval.

Mrs. deLeon said she's confused why you have a consultant's concern. If you want to table this, you can come back in two weeks. We paid a lot of money for our consultants. Attorney Preston said they paid a lot of money for their's also and a lot of money for material that your consultant's relied upon. Attorney Treadwell said the special exception condition required compliance with DEP regulations. He doesn't know what the difference is between compliance with DEP regulations and no. 2 and 3 on the April 5 letter from HEA regarding NMOC and particulate matter. Mr. Horiszny said he doesn't believe there are differences there. Your air quality people listed both NMOC and the PM10 and Lou Militana was just trying to be in agreement with that. Attorney Preston said he doesn't know, but if they are in there, and they are included, then there is no need to change it. He'd also like to add we also agreed to something above and beyond compliance with DEP. They agreed to supplemental testing every six months for the first two years thereafter. They made every attempt to give the Air Quality Consultant what he's looking

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for. The problem is with these additional parameters, if they are outside DEP, he doesn't know what they are. If they are, who's standards are they going to use, what is the criteria, how do we measure it? We all assumed or presumed we were dealing with the DEP standards. If that's still the deal, the special exception language is more than adequate. They don't know why they have to move outside of that. If they aren't, then he doesn't have an issue.

Mr. Horiszny said what Mr. Birdsall said was what where their concern is that DEP hasn't exactly said what was going to be included. Mr. Birdsall said exactly. Mrs. deLeon asked if this could be tabled until DEP makes a decision. Attorney Treadwell doesn't know what our time frame is. Mr. Birdsall said we have out to July. You have until July 7 to vote on this. Attorney Preston said they did just get this letter. They are in a hard spot here and in a time constraint. If they are forced to, they are going to accept this as they need a decision this evening. It's unfair to drop this on us a few hours before a hearing if it does modify the special exception condition. We're in a bind, we're stuck. He thought they had an understanding. Mrs. deLeon said this is a staff recommendation prepared by the Township. We are seeing this for the first time, and you are taking our right away from us. We have the right to add additional conditions.

Mr. Maxfield said he doesn't like this last minute stuff coming in especially when no one is here to fully describe it. He's uncomfortable with it also as he doesn't know what it means either. There is no one in this room who knows exactly what this means. Now we're asking the applicant to come back again because we don't know what it means. He doesn't appreciate it. If it was going to come in at the last minute, we should have at least had the air quality consultant here to explain what it was. We've had these last minute things here before and he voiced his objections then and he's going to do it again. Please don't give him last minute things that he has to cipher through when someone's approval is on the line. It's not right. Mr. Birdsall said Tom is right and he apologizes. Mrs. deLeon said we have between now and July 7 to make a decision. It can come back to us as many times. Mr. Maxfield said we knew that this was coming up for preliminary approval tonight, we should have been ready. We dropped the ball. As long as we are going to talk about procedures tonight, this is just as important as the last procedure we talked about. Attorney Preston said we need an action on the plan. If the conditions are in there, they are in there. There's nothing we can do about it. There's nothing in there they are going to object to that it's going to jeopardize action this evening.

**MOTION BY:** Mrs. deLeon moved for approval based on the staff recommendation.

**SECOND BY:** Mr. Horiszny

Mr. Kern asked if anyone in the audience had any questions or comments? Attorney Treadwell said that's the staff recommendation letter that now includes the April 5, 2006 letter from HEA. Mrs. deLeon said yes.

Mrs. deLeon said we didn't address Judy's letter. Her letter refers to fire companies, and she doesn't agree 100% with her description of the site plan, no. 2. Mr. Horiszny said what were the reasons again on the detention pond not being quite deep enough and a little steep and not having as big an out flow pipe as suggested. Mr. Dobry said the flow into the detention basin is very small, it's like a one acre drainage area. It's like working in miniature. It's difficult to meet all of the criteria that is set up in the ordinance when you are working at such small scale. They were able to meet most of the criteria. There was a freeboard that they missed by 3" that they weren't able to provide. With the space being limited, working between the highway, the wetlands area, and in order to get the proper detention volume, they had to make the inside slopes somewhat steeper than the ordinance calls for. Also, the size of the holes in the discharge structure, the ordinance requires 3", but again, with the small volume they were working with, it was just impossible to design the riser with that big of a hole in it. Mrs. deLeon said if this gets approved tonight, then all these letters will be attached to the minutes. Attorney Treadwell said yes. Mrs. deLeon said is that policy now? Mr. Kern said it sounds

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like we need a policy meeting. Mrs. deLeon said well, then I guess we don't meet the sunshine law if we don't do that.

Mr. Cahalan said the recommendation it refers to no. 2 that it should address the comments in the Boucher & James letter of March 28 and it should be the March 27 letter. Mrs. deLeon said we have an error.

Mrs. Yerger said in light of Tom's comments, she wants to add one thing. If we expect to be treated as professionals, we need to treat the people that are sitting out there as professionals as well and this needs to be a reciprocal relationship in that extent that we need to have respectful ways. She agrees with Tom that it was not fair nor was it professional to hand them that letter at this late date.

Mrs. deLeon said if hearing what she heard, then does that mean whenever there is something as preliminary plan approval on the agenda, then we have one shot at talking about it and it better take action that night. We could have two more months to talk about this. Attorney Treadwell said he doesn't think that anybody on Council was expressing a legal opinion. They were expressing personal opinions as to whether an applicant shall receive something with a little more time to look at it. It's not a legal issue. Your legal issue is you have until July 7. Mrs. deLeon said if the situation were reversed, which happens many, many times, they walk in here with letters for us. Attorney Treadwell said normally when they walk in here with letters for us, we say sorry, goodbye. Mrs. deLeon said we have time to do that. Mr. Maxfield said this is a courtesy issue. Mr. Birdsall said it is totally his responsibility and he apologizes. The back and forth between DEP and our consultants has been pretty hot and heavy and they have to get their draft letters out a week ahead of time and they did the best they could. He didn't want it to go past tonight's meeting though. He thought it was important enough to interrupt the process and bring it forward as this is our last opportunity to make a vote. He tries to avoid situations like this and will continue to try to avoid situations like this.

**ROLL CALL:** 5-0

**IV. TOWNSHIP BUSINESS ITEMS**

**A. CONSTRUCTION SITE WORK TIME DRAFT ORDINANCE – AUTHORIZE ORDINANCE ADVERTISEMENT**

Mr. Kern said staff recommended to Council the implementation of an ordinance to establish hours of operation for certain construction activities and we are requesting Council authorize the advertisement of an ordinance for a public hearing and consideration of adoption at a council meeting to be set.

Mr. Cahalan said they discussed this with Council about the need for having an ordinance such that it would regulate the hours of construction activities in LST. There is a draft ordinance in front of you. They are asking for authorization to bring it back as an ordinance.

Mrs. deLeon said we need to have something in place for the hours, her problem is Saturday and Sunday, and holidays. The holiday would be okay. Attorney Treadwell said he came up with those days and times to be as conservative as possible to protect the residents of LST. That's why it's here for your review. Mrs. deLeon said her husband is off on weekends and if they want to do some yard work, and we want to rent a piece of equipment, that would be the day to do it and according to this ordinance you can't do it. Are you telling the homeowner they can't do it. That's really a hardship to the homeowner. It won't be done every Saturday or Sunday. You need to do some things on your own sometimes. Attorney Treadwell said they would have to get written permission from Council of LST. Mrs. deLeon said could you imagine someone waking up on a

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Saturday and say it's good weather here, I'm going to do this today and let's go to a Council meeting so they can get the okay. Attorney Treadwell said it's a draft ordinance for Council to look at and take it out. Mr. Maxfield said he doesn't want to take it out. Mrs. deLeon said it's not reasonable, and it's a hardship. She respects living in LST and if something is out of hand, there's a nuisance ordinance. We need to set hours. There's also projects of temporary nature. Not everyone is lucky enough to have off on Saturday and Sunday and it's a burden to the homeowners for people doing home repairs. Depending on the amount of snow, you'd have to hire someone to come and remove the snow. What if Saturday is your only day to do it. If you want to have top soil, or mulch delivered, the normal thing. Attorney Treadwell said the only issue you have is nuisance noise which is if you take out Saturday and Sunday and holidays, the only way you have to regulate that is by the nuisance ordinance. Mrs. deLeon said we have so many rules and regulations, and she's not saying we shouldn't, but it just gets to the point that every time you take a step in your yard, you have to wonder if you're violating an ordinance.

Mr. Maxfield said he doesn't want to take out Saturday, Sunday or holidays as the real hardship is the person who has to live next to construction day in and day out. At least they can get a break on Saturday, Sunday and holidays. If you woke up Sunday morning and heard a jackhammer going, you'd really lose your mind. He doesn't want to take those days out. We are writing a general ordinance for the majority of the people in the township, not the contractors. Most of the illegal work done in the township is done on these days. He's seen it in his neighborhood. This is fine just the way it is.

Mrs. Yerger said she'd like to pick a halfway point. She thinks Sundays and holidays should definitely stay in. Saturday's should be taken out. A lot of people do view Saturday as a day where they can get some mulch delivered or things like that. She would suggest Saturday be removed, but Sunday and holiday's be left in. Mr. Maxfield said what you are mentioning would not fall under this as it says excavation and construction work. If you get a load of mulch and you're moving it around with a backhoe, that's not really either one of them. Mrs. deLeon said it's not clear. She thought this was for subdivisions. Mr. Maxfield said he doesn't care if it's subdivision or not. Mrs. Yerger said she already had a home built and he did appreciate if they were able to work on a Saturday, which is sometimes a catch up day. Mr. Maxfield said under that scenario, what you would permit would be a subdivision that came in with 50 homes and six days a week from 7 AM to 8 PM they'd be hearing beep beeps and construction noise. Mrs. deLeon said can we change Saturday's to 9:00 AM. Attorney Treadwell said we can, but you start to get into the enforcement issue is it the zoning office or the police department. Mrs. Yerger said for the general public, prohibiting it on Sundays and holidays would be more acceptable than Saturday's. Mrs. deLeon asked what is houseline construction? Attorney Treadwell said that came from the Zoning officer and he doesn't actually know. He said Chris was comfortable enough with it. Mrs. deLeon said do we know what it means. It should be defined and it's not defined in here.

Mr. Kern opened it up to the audience. Ms. Stephanie Brown said one of the reasons this ordinance has come to be is because of her numerous complaints of having to live next to a construction site for a year. Yes, we do need to find a balance somewhere. Unfortunately, with the nuisance ordinance, it doesn't hold mustard a lot of times. Isn't this whole thing to authorize that there be a discussion on this issue. Attorney Treadwell said the purpose of tonight's meeting would be to advertise it for a hearing. What Council is discussing at the moment, is what version of the ordinance should be advertised. Mr. Kern said being a resident who is experiencing this, what is your opinion? Ms. Brown said when she first complained it, it was sort of for the big subdivisions. She thinks it is very necessary to have it for the homeowners also. Every time she calls about a nuisance ordinance, she keeps getting told about how the cops are supposed to come out with some sort of meter to measure the noise. She has yet to see anyone ever do that. She's tired of construction noise. The construction company by her house is there at 1:00 in the morning, 3:00 in the morning, and come in refuel the heavy equipment. They shouldn't be there at that time in the

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morning. She calls the Police and nothing is ever done. Mrs. deLeon said she would relate that to a garbage truck coming at 3 or 4 in the morning, that is unacceptable also. Maybe we need to amend SALDO or put it in here, that construction sites shouldn't be doing things during the different time periods. There should be no construction activities. Mrs. deLeon said it should definitely be addressed. Mr. Horiszny said we can add refuse pickup. Attorney Treadwell said you can, it's where do you stop. It has to be township wide, you can't say a developer you can do A, B, C, but the homeowner can do what they want. The way we could handle it is with development agreements, the developer signs saying they won't do A, B, C, and E as part of their project.

**MOTION BY:** Mr. Horiszny moved that we move to advertise the draft ordinance – construction site work time draft ordinance.

**SECOND BY:** Mr. Maxfield  
Mr. Kern asked if anyone in the audience had any questions or comments? Mrs. deLeon said you are including Saturday, Sunday and holidays. Attorney Treadwell said that would be with this motion, the advertised ordinance. If you take out Saturdays after the hearing, you do not have to readvertise. Mr. Kern said there is time for further discussion on the Saturday issue. He's okay with that. Mrs. deLeon said she can't vote for that. Mr. Allan Johnson said it would be a good idea to allow construction activities on Saturday. Most homeowners construction activities are short lived, maybe one weekend, or so. He's surprised you can't make one set of rules for the developer and one set of rules for the homeowner. Mr. Kern said the only way we can do that is to make it part of the development's agreement which our solicitor just suggested which is a good suggestion. Mr. Johnson said it's a good suggestion too, but he can't put it all together in a rational paragraph right now. He wanted to say homeowners should be allowed to do their work on Saturday's. If you have to allow construction work to continue, then we just have to live with it. Construction work also doesn't last forever. He would like to see Council discuss it and come up with some means of allowing that. Attorney Treadwell said did you read about Mr. Stein's farm. If we put restrictions on developer's, but not anybody else, then Mr. Stein would be allowed to use his property however he wants, move his stumps around with bulldozers, and we would have to tell Mr. Stein's neighbor, sorry, we don't regulate him, we only regulate developer's. That's the purpose of having the same rule for everybody. Mr. Kern said he's leaning into the Yerger compromise of allowing Saturday's and Mr. Johnson's suggestion as well. Mr. Horiszny said we need to have the advertisement, get people in and see what other people say. Mr. Maxfield said the small owner doing a small job, any problems with that is going to be complaint driven, but six days a week for five year construction schedule. It's your choice. Mrs. Yerger said maybe at six days a week, it will get down to 4 ½ years. Mr. Horiszny said this is heavy duty stuff. A lot of people don't have jack hammers or things like that in their backyard. Ms. Brown said we are at two extremes here. What about the homeowner who brings in a professional? Mrs. deLeon said exactly, it's unreasonable. Ms. Brown said some of the stuff that goes on behind her, some one comes in to do work at night and they go out and might be cutting pipe, and she has retrained herself from calling. It needs to be advertised and have people come in and have their say. It gets very complicated.

**ROLL CALL:** 4-1 (Mrs. deLeon – No)

**B. RIVERSIDE DRIVE – NARROWS REPAIR UPDATE**

Mr. Kern said Council would like an update on the repair status of Riverside Drive.

Mr. Cahalan said several weeks back the debris that had come down in the storms of 2004 had been removed, largely through the efforts of Walter's Excavating. The road has been cleared, and the next step is they were going to have to do some shoring up along the RR tracks and also add some fill in the places where there was erosion and build the road back up, get it paved, and reopen it some time this Spring. About more than a month has gone by and there's no activity. He checked

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with PennDOT and they said apparently the reason for the delay is that PennDOT has been trying to obtain from Norfolk Southern an agreement that would allow them to have a flag person available to flag the trains down so they could get equipment and materials in there and complete the rest of the project. According to what he told Mr. Cahalan, he indicated that they've sent the agreement down to Norfolk Southern on February 3, and they followed it up with emails on February 27, March 11, March 27 and April 3, and made numerous phone calls. They haven't been able to obtain the flagging agreement. That is why the project is not moving forward. He took the liberty of giving that information to our representative Freeman and Boscola and to Chief of Staff at Congressman's Charles Dent's office. The Congressman's office indicated they would forward it to a Norfolk Southern lobbyist that they have in Washington. We are looking to expedite this work so we can get the road back opened. We need to get it going again. Mr. Horiszny said are they saying they need a flagman for all the work there? There's got to be areas where the track is pretty far from the work site. Mr. Cahalan said he doesn't know the specific areas, but probably in the areas that need the most work. Mr. Horiszny said it seems like they could be doing work at other specific areas. Mrs. deLeon thanked Mr. Cahalan for looking into this. She would like an update on this in a month. Mr. Birdsall said every time they deal with any of the RR's, it is very, very difficult and takes months. There was a person in right-of-ways from Philadelphia who was from Lehigh Valley who got them some right-of-way plans one time, so they can actually react if they have a little sympathy for the neighborhood. It's a matter of talking to the right people. Mr. Cahalan said IESI made an offer of fill and stone, but it couldn't be used as it didn't meet the specs for PennDOT gravel.

Mr. Allan Johnson said his experience with RR's, there's no way you can have a man with a flag, flag down a freight train. That idea is ridiculous. It takes a mile to stop one of those things. In his experience there is a thing that in the RR business they call a flag, and it's a metal thing that hangs on a track and it attaches to the track and it leans over and it stays there. When that thing is on the track, it's against the law to move it. That may be what the RR people are thinking about, so essentially they would have to shut down travel on that track to allow PennDOT to do their work and that's a pretty big deal, and he's sure PennDOT knows that. Mrs. deLeon said Congressman Dent's office, didn't they get somebody at the RR who agreed to cooperate with us? Mr. Cahalan said he didn't remember. He said maybe he was incorrect by characterizing the flagging as human rather than mechanical. Mr. Birdsall said it is a combination of making sure some one is there from the RR with the construction crew and all the appropriate precautions are taken. Mr. Horiszny said it could be the flag is to warn the construction workers, they are not going to stop within 20 feet.

**C. CASINO IMPACT UPDATE**

Mr. Kern said the PA Gaming Control Board has scheduled Public Input Hearings at nine locations throughout the state to allow local government units, community groups and the general public to comment on the applications that have been submitted for casino license in PA. Locally, the hearings on the applicant for casino license in Bethlehem, Allentown, and Limerick Township, Montgomery County will be held on April 28, 2006 and May 23, 2006 in Allentown, PA.

Mr. Cahalan said there are a couple of changes. There's been an overwhelming response for people wanting to testify, so another date has been added. It is now April 28, May 22 and May 23 in Allentown, PA. There are hundreds of people who have submitted applications to testify. At the last meeting, they were under the mistaken impression as a township that we were a governmental unit. We came to find out that was reserved for the host municipality and host county. That would be City of Bethlehem and County of Northampton who get 30 minutes to testify. We are now in the ranks of the individuals and we get 3 minutes to testify. We have a lot to say. The impact statement is being looked at by staff and our EMS personnel. We will have say about the traffic, the emergency services area, increase in crime, increase in traffic instances, the fire people will

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have to respond to incidents on the roads, the EMS will have to respond to the increase. We are pulling that information together. On April 10, there will be a public hearing at the Dewey Fire Co. We expect to get some good input from the residents. We submitted registrations for this hearings for everybody on Council, police, EMS coordinator, Jim and two of our fire chiefs. What is going to happen at the three hearings? He contacted the PA Gaming Control Board. The spokesperson, Nick Hayes, said they will try to accommodate everyone who registered to speak. When are we going to receive the notice we are going to be able to speak? Nick said they are really busy and hope to have the notices out to us at least a week prior to the first hearing. Are the speakers, who are registered and selected going to be grouped together? That is questionable as with the three dates, we don't know how they are going to space out the speakers. What could happen is Glenn could go April 28, Priscilla on May 22 and Jim Birdsall on May 23, so we could be spread out over the three days. If we're fortunate to all get lucky and wind up with the one date, were they going to regroup us together so it would say LST? The answer is no, they aren't going to group them together, it's dependent on a sign in sheet that will be at the hearing. Those are the ground rules. Today the first hearing kicked off at Gettysburg, so they'll be press about this whole thing was run. It's not giving us a fair shot at going together and testifying. We can submit written comments and will be part of the record. There is a meeting on April 7 with Northampton County to discuss some of these issues.

Mrs. deLeon said the sham that the FAA put us through at the hearing, they followed up with an assessment document and it had in there where they supposedly addressed everybody's written concerns. Did anyone recall seeing anything in Act 71 or some to those other things that after this hearing, are they going to take the time to read all of this and will there be a document release. Mr. Cahalan said they said the members of the Gaming Control board are going to be seeing these comments and will become part of the record. Whether the public is going to see them, he's not sure.

Mrs. deLeon said Jack and herself went to see Boscola. We talked to her about negative impacts and she thought there wouldn't be too many negative impacts. We tried to address what we thought were going to be impacts. There's a thing called Gross Terminal Revenue (GTR). Kurt Derr, her chief of staff, is going to get back to Mrs. deLeon. If they are going to base the money that's given to the County and to the host municipality on this GTR, and if you deduct all the comps and all the free meals and free hotels, there isn't going to be much left. He will get back to us on that. We found it in Act 71, but it wasn't clear. There are two money amounts. One is going to go to the city and one to the county. The county is going to get two sets of money. Mr. Cahalan said it's a percentage, 2% is going to Northampton County from the GTR. Mrs. deLeon said it's important that the GTR is defined. Then it's up to the County to award these grants to adjacent municipalities based on their proposal of impacts. We don't want to be left standing with an empty can, so we want to make sure we are in there with our hand out asking. Supposedly the County Executive would determine who he would favor for this grant approved by County Council and then DCED would be the final say on whether or not this money is given. It's not very comforting to her as we are not assured of that money. Based on these things Jack said, if the traffic is going to be like it is, we probably are going to have to hire extra police officers, which results in extra compensation, insurance, etc. Mrs. Yerger said what you are saying is we should come out as a municipality in opposition to the casinos. Mr. Cahalan said that's being done by other municipalities. Mrs. deLeon said we oppose it unless we're given money for the impacts. Mrs. Yerger said we should just consider opposing it because no matter what we do there isn't going to be any financial compensation that will cover the impacts that we are going to suffer. Mr. Cahalan said we don't know if this is going to happen, but there was some discussion that the legislators are talking about a revenue sharing proposal where if Bethlehem gets the slots license, they have to share some of the money with Allentown or vice versa on a regional type of revenue sharing. Where would that money come from? It comes from the money that goes to the county. So that's a concern. Mrs. deLeon said there are hidden impacts. If Atlantic City was so profitable, why are



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all the people moving from Jersey to Pennsylvania. The businesses in AC dropped from 48 independent restaurants to 16. In the casinos, they will have their own restaurants. Within just four years, 1/3 of the retail business had closed.

**Jaclyn Rasich left. The time was 10:15 PM.**

Mr. Cahalan said it's nothing but bad news. Mrs. Yerger said we should seriously consider, as a municipality, to come out with opposition with the casinos. Mrs. deLeon said she agrees, but we need to put something on to it because if it happens and we are not there asking for reimbursement, they are going to get there and we are going to say no and we'll have nothing. If you go to a casino and they give you free food, you're not going to go to your local restaurant to eat. Mr. Cahalan said the supervisors in Upper Pottsgrove Township, went on record opposing the casino and went on record saying "the severity of those impacts on the regions roads, infrastructure and on municipal services such as fire and police has yet to be identified and quantified. If these offsite impacts are not adequately addressed up front, we fear that the burden of mitigating them will fall on the shoulders of the municipalities in this region". Mrs. deLeon said that is an excellent statement and that's what we are saying. We'll oppose it based on that.

**MOTION BY:** Mrs. Yerger moved to oppose casinos license in Bethlehem based on the impacts which Mr. Cahalan just read above about Upper Pottsgrove Township. The impacts would be on the regions roads, the infrastructure and municipal service such as fire and police, and also due to the fact they have yet to been identified and quantified and if they are not adequately addressed up front, the township fears the burden of mitigating them will fall on the residents of Lower Saucon Township, and the loss of tax revenue from the loss of businesses in LST.

**SECOND BY:** Mrs. deLeon  
Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Maxfield said he's not sure how much we'd get any sort of impact fee as according to everyone's studies, we're not being impacted. Keeping our hat in the impact fee area kind of compromises our opposition to the whole thing and he'd like to stick to the opposition right now. If we're viewed as keeping our hat in the whole mix and hoping for those impact fees, that it's going to compromise what our statement is. Mrs. deLeon said right now the law doesn't say we should be compensated for it. We need to lobby the state to get language in there. If this happens without us making noise, we definitely won't get it or it's up to the county. Mr. Maxfield said we're not going to do an impact study that is saying you are impacting us and you need to give us money. They are going to rely on their own studies which already say we are not going to be impacted. Mr. Horiszny said on the 2%, 1% went to Northampton itself and 1% to the surrounding area. Mr. Cahalan said the whole 2% goes to Northampton County. The way Senator Boscola explained it, 1% is reserved for the County's use and the other 1% is reserved for the municipalities in Northampton County. Bethlehem gets \$10 million off the top every year. Mr. Horiszny said there's no law that says it has to be adjacent communities? Mr. Cahalan said it's preference to the municipalities who are contiguous to the host municipality? Under Act 71, if Bethlehem got the license, Allentown would not get anything. Mrs. deLeon said the reason Allentown will not is they are in Lehigh County. Monday night, as individual council members, we still have the right to answer questions and state how we want the law changed to reimburse us for impacts. Mrs. Yerger said we need to oppose this. The financial compensations are not going to compensate us should casinos go into Bethlehem.

**ROLL CALL:** 5-0

**D. RESOLUTION #30-2006 RENAMING PORTION OF SEIDERSVILLE ROAD TO COLLEGE DRIVE**

Mr. Kern said Lehigh University has requested to rename a portion of Seidersville Road to College Drive. Resolution 30-2006 has been prepared to approve the name change.

**LOWER SAUCON TOWNSHIP  
RESOLUTION #30-2006  
RENAMING PORTION OF SEIDERSVILLE ROAD TO COLLEGE DRIVE**

**WHEREAS**, a portion of Seidersville Road in Lower Saucon Township acts as an access road into the Goodman Campus of Lehigh University; and

**WHEREAS**, Lehigh University requested in 2002 that this section of Seidersville Road be re-named College Drive; and

**WHEREAS**, this request for a change in the road name was reviewed by the Township Public Works Director, Emergency Management Coordinator and Fire Marshal and met with their approval; and

**WHEREAS**, based on these recommendations the Township Council on March 6, 2002 moved to approve the name change; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of Lower Saucon Township, Glenn Kern, President; Priscilla deLeon, Vice President; Ron Horiszny, Tom Maxfield, and Sandra Yerger, hereby approves the change in the name of this section of roadway from Seidersville Road to College Drive subject to the condition that Lehigh University pay for the cost of the new road signs.

ADOPTED and ENACTED this 5<sup>th</sup> day of April, 2006.

Mr. Cahalan said this came up a couple of years ago from Lehigh. They did submit the request to the police, fire and emergency management and no one has any objections to renaming the road as indicated. Mr. Maxfield asked what part of Seidersville Road? Mr. Cahalan said it's the access road into the Goodman Campus from Seidersville Road. There is no one living along that section of the road that would be impacted. There's only a storage site. It's the back way to Wendy's. It goes parallel to I78. It is down near Stabler area, the new part, the new paved portion they just build years ago. It's where they put the mulch in the gated area. It's just a little stretch from there to Mountain Drive stop sign. Mrs. deLeon said in the NOW, THEREFORE IT BE RESOLVED, we usually put all our names in there. Mr. Maxfield said if the police and emergency services had no problems with it, we probably aren't breaking a road.

**MOTION BY:** Mr. Horiszny moved for approval of Resolution #30-2006 and add Council's name in the resolution were it starts, NOW, THEREFORE IT BE RESOLVED.

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

**ROLL CALL:** 5-0

**E. RESOLUTION #32-2006 – TRANSFER OF MONEY FOR LAND PURCHASE**

Mr. Kern said Council authorized the acquisition of various parcels of land for park and open space and secured a \$2,000,000 loan for that purpose. Resolution 32-2006 has been prepared to transfer

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\$1,000,000 from Line Item 44.493.000 – Contingencies to 44.452.710 – Land Purchase in order to finalize the acquisition of these properties.

**A RESOLUTION AUTHORIZING THE TRANSFER OF MONIES BETWEEN LINE  
ITEMS WITHIN THE LAND ACQUISITION/PARKS ACCOUNT**

**SECTION 1.**

The Council of Lower Saucon Township hereby authorizes the transfer of monies from one Township account to another within the General Fund in accordance with Article XXXII, Section 3202 (f) of the Second Class Township code as follows:

<u>FROM</u>			<u>TO</u>	
<u>Amount</u>	<u>Account No.</u>	<u>Account Name</u>	<u>Account No.</u>	<u>Account Name</u>
\$1,000,000	44.493.000	Contingencies	44.452.710	Land Purchase

**SECTION 2.**

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

**RESOLVED AND ENACTED** this 5<sup>th</sup> day of April, 2006.

**MOTION BY:** Mr. Horiszny moved for approval of Resolution 32-2006.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**V. MISCELLANEOUS BUSINESS ITEMS**

**A. APPROVAL OF MARCH 15, 2006 MINUTES**

Mrs. Yerger said on page 7, 6<sup>th</sup> line down, change “he’s” to “**she’s**” Mr. Kern said on page 3, 4<sup>th</sup> paragraph, change “whether its” to “whether **it’s**”. Mr. Horiszny said on page 4, Mr. Guerrieri said he has an applicant in, change applicant to “**application**” in, twelve lines down. Eight more lines down, change don’t want it use for commercial use, to “don’t want it **used** for commercial use”.

**MOTION BY:** Mr. Horiszny moved for approval, with corrections.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

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

- Stephanie Brown said she received a letter from the township regarding her complaints from Toll Brothers. One of the problems is the lights coming off the property. She understands lights aren’t supposed to cross property boundaries. Mr. Kern said it’s a certain number of luminance that aren’t supposed to cross. She asked who is out measuring that? Mr. Kern said someone with a light meter. She said we need a light ordinance in this township. It’s losing its rural characteristics. The lights shine into her bedroom also. The township needs to look into this. Mr. Cahalan said it was checked out and the lights are facing down. She also questioned about Toll Bros. putting

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ground that was six feet higher, why is this grading being allowed. Mr. Birdsall said the slope actually goes uphill as you go into the farm field and he doesn't know the original genesis to put the houses higher, but he does know that what that results in is the runoff from the front of the house going to the street. If the houses were lower, then the runoff from the roofs and the driveway would come back to the Brown's home and other homes in the neighborhood. Mr. Maxfield asked about proposed buffers? Mr. Birdsall said it's residents to residents. Ms. Brown said she understands their point of view about the casinos and the impact it may have on this township, but there are other things that have impacted this township, the growth in general, changes in the township, the Eagles camp, where she sat in traffic for 40 minutes. What about all the things that have changed in this Township? What about the proposed 70 or so shops going into Upper Saucon. She didn't hear anybody say anything about that, what about the impact on that? Mrs. deLeon said they are meeting with Karen Beyer in two weeks. Mr. Cahalan said what they are embarking on with Hellertown is a regional, multi municipal plan. They are going to look at all these issues and the one is the development in Upper Saucon Township. Ms. Brown said it's a little late now, they are supposed to go in by this fall. Didn't Mr. Kern used to have a meeting with an official from Upper Saucon? Mr. Kern said that was an Upper-Lower Saucon joint open space recreation plan. The plan has been generated and there will be a presentation here on May 17. Ms. Brown said East Oakhurst, that's a real bad intersection. What's it going to be with that shopping center opened or even with Olympus? Has anyone looked into that. Mr. Cahalan said it's Upper Saucon Township and PennDOT. There's nothing we can do about it. She said Colesville is on the other side. Mrs. deLeon said when they meet with Ms. Beyer, it will be 378 and 309. Mr. Kern said if the casino does go through the impact from people coming up from Philadelphia. Ms. Brown understand the impacts of the casinos, but let's deal with what you have done, the changes you helped create and let's deal with those too. When is 412 going to be brought to the public? Mr. Cahalan said that will be coming back to Council at another meeting. Another thing she asked was the location of a stop sign and was told it is in its proper place. She needs to know why this stop sign on Stover Road going out to Meadows Road is so far back. She spends her days watching people go through the stop sign. Mr. Cahalan said your request was passed along to the Police Department about the location of the sign and Corporal Williams is the traffic officer who went out and investigated it and came back and it indicates that the sign is located in the correct spot per PennDOT regulations. The stop sign is not put right at the end of the road because there's a sweeping curbing that goes around from Stover out to Meadow's, and you could not put the stop sign out in that curb, it was back where it could be seen by the motorist as they approached the intersection. He concluded it was located in the proper place. Mr. Horiszny said we could consider putting a line on the road. Mr. Kern said good idea. Ms. Brown has seen things go over the bridge that she questions the weight limits.

**VII. COUNCIL AND STAFF REPORTS**

**A. COUNCIL/JR. COUNCIL**

**Mrs. Yerger**

- She said she got a call from a gentlemen at the Peace Valley Nature Center and we had talked last year to Judy about purchasing Elm trees for the entrance of the park and bring the Elms back to our region. She needs to ask Jack to authorize the funds to purchase the trees. They put aside 12 for us. They are very large Elms.

**MOTION BY:** Mrs. Yerger moved for appropriate the \$4,200 for purchase of 12 large Elm trees from Peace Valley Nature Center.

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

**ROLL CALL:** 5-0

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**Mr. Maxfield**

- Last night there was an EAC meeting, and he has few recommendations. We realize we don't have any protections right now for agricultural soils, so the EAC would like to recommend that staff would look into possibilities of the preservation of prime, state important and currently farmed ag soils. He talked to Chris Garges and he's working a list right now.
- They realized the Cook's Creek overlay on to the zoning map of the watershed area, somehow skipped over Boucher & James for review. Before they totally adopt it, they'd like to send it to them.
- Electronics Recycling Day is now set for April 22, 2006 from 9 AM to noon with a rain date of April 29, 2006. It will hopefully be at town hall and it will be pretty much like last time under the general heading of electronics. It will be advertised in the newsletter and they will advertise it in the newspapers.

**MOTION BY:** Mrs. Yerger moved for the advertisement of the recycling event on April 22, 2006.

**SECOND BY:** Mr. Maxfield

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Allan Johnson asked Jack how he plans to look into and what he plans to do into preserving agricultural lands. Mr. Cahalan said he'll have Chris talk to Judy Stern Goldstein and they will come back to the EAC and Council. Mr. Johnson said they should consider an ordinance protecting agricultural lands. Attorney Treadwell said that's the only way they could do it.

**ROLL CALL:** 5-0

- He said last night they talked about a referendum for the Earned Income Tax (EIT). They would like to recommend to Council that we actually start the preparation work for doing a referendum for dedicated tax to open space. Linc supplied them with a nice sample which is a good place to start. They are hoping Council would join on with them. They would like to meet a time line and that will come up pretty soon. It was a concern that it probably had a five year life that would have to be renewed in five years, if so desired. The percentage is 0.125%.

**MOTION BY:** Mr. Maxfield moved as stated above.

**SECOND BY:** Mr. Horiszny

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

**ROLL CALL:** 5-0

**Mr. Horiszny**

- He said the landfill recently received a semi NOV for litter after the big wind. It didn't say it was a notice of violation but it said it looks like you're in violation. He's not exactly sure what that meant. Mrs. deLeon said we have our quarterly landfill meeting coming up and we need to address that and the issues Lori brought up.

**Mr. Kern**

- He got a call from a softball coach about the removable first base. Mr. Cahalan said he spoke to Mr. Schrader who was with the softball league. The bases are called safety bases and it's actually a double base at 1<sup>st</sup> base where the runner can cross 1<sup>st</sup> base without colliding with the fielder. It turns out to install those would involve putting another anchor in the ground, so we'd have to take the footing out. He spoke to Mark Doklan and he said they are not sure Mr. Schrader is even from the township and the Little League uses the field from Monday through Friday. They will have to give him space to use the field. They have safety bases already, but the double base is something that is coming, but not in the Little League. He's trying to work him in to see if he can play here also.

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**Mrs. deLeon**

- Nothing

**Ms. Rasich**

- Left at 10:15 PM

**B. TOWNSHIP MANAGER**

- He needs additional approval from Council for the trees that they were really fortunate to receive from Chris Cummings from Springfield Tree Farm. There was some cost involved through Mike Keefer and Keefer Landscaping. They got 200 trees that were donated that are probably valued at \$20,000. It was \$5,040 for all of this work. Council already approved paying \$3,500, but because the trees kept multiplying, he needs to pay an additional \$1,540.

**MOTION BY:** Mr. Kern moved for approval for \$1,540 to pay Chris Cummings.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

- He said Mike Keefer came to him and said he would like to donate a tree, a large Red Oak Tree, and with Council's permission have it planted in Polk Valley Park in honor of the late Andy Orbin and to place small plaque by the tree to honor Andy. Mr. Kern said the first soccer field will be in honor of Manny Tavormina.

**MOTION BY:** Mrs. Yerger moved as stated above by Mr. Cahalan to allow Mr. Keefer to donate a tree to plant in Polk Valley Park in honor of the late Andy Orban and to place a small plaque by the tree to honor Andy.

**SECOND BY:** Mr. Kern

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

**ROLL CALL:** 5-0

- Council was given a memo that Judy Stern Goldstein prepared regarding the review and update of the township subdivision and land development ordinance. Judy, in the memo, laid out a schedule of tasks on how to work on this. She'd like to establish an advisory committee made up of Rick Tralies from her office, Brien Kocher from HEA, Chris Garges, Township Manager or Leslie, the Assistant Manager, Tom Maxfield, Sandy Yerger, other council members, Terry Clemmons or Linc to meet monthly to work at completing sections of SALDO. In that, she estimates the cost of the project would be approximately \$40,000. Mrs. deLeon likes the concept, but didn't get to read it yet. She asked in the future, if you give us a letter, please put it on the agenda if you are going to ask us about it. Mr. Cahalan said sure.

**MOTION BY:** Mr. Maxfield moved for Judy to start working on the concept of the SALDO revision plan.

**SECOND BY:** Mr. Kern

Mr. Kern asked if anyone in the audience had any questions or comments? Mr. Maxfield and Mrs. Yerger will volunteer to participate.

**ROLL CALL:** 5-0

- He received a memo from Judy and Rick Tralies about an open space task schedule. That was given to Council and what that outlined was a schedule of tasks that Judy was recommending to complete the work that Council wants her to do on the mini open space

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plan that was presented to us by Harry Roth. She indicates she would do some work to identify areas in the township that should be preserved and provide an inventory and description of these areas. She can complete this work in November of this year and the cost is \$27,500. She indicated it could be completed early in November. Mrs. Yerger said we need it early in October because it should be in place before the referendum in November.

**MOTION BY:** Mrs. Yerger moved to authorize Judy Stern Goldstein to begin working on the mini-open space plan provided by Harry Roth as outlined in the task schedule provided by Boucher and James.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

**MOTION BY:** Mrs. Yerger amended her motion that it be completed early in October.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

- He is asking for Council approval to send a support letter. The police departments in Northampton County are in the process of replacing the video system that was installed over 10 years ago. It is in VHS format and now needs to be converted over to a digital format. VHS is requiring a lot of maintenance. Council approved funding this year to do it on a staged basis, but what the Police Chief would like to do is send letters to Senators Santorum and Specter and Congressmen Dent and list their support for federal funding for all of these department to purchase this equipment.

**MOTION BY:** Mr. Horiszny moved to send a support letter to the above stated people asking for the funding for the car videos.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

### C. SOLICITOR

Nothing to report.

### D. ENGINEER

- He handed out the corridor study of Meadow's Road. If you have any questions, please call him or email him.
- Regarding Long Ridge, he mentioned they were going into construction. They did not have the preconstruction meeting. They are asking for one amendment that said it had to go before Council. It's in writing and a request to switch from corrugated metal pipe and concrete pipe to HD PE smooth pipe for storm sewer. They used it in prior uses and have no objections to that.

**MOTION BY:** Mr. Kern moved for approval as stated above by Mr. Birdsall regarding Long Ridge.

**SECOND BY:** Mr. Maxfield

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

**ROLL CALL:** 5-0

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**VIII. ADJOURNMENT**

**MOTION BY:** Mr. Horiszny moved to adjourn. The time was 11:22 PM.

**SECOND BY:** Mr. Yerger

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

**ROLL CALL:** 5-0

Submitted by:

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Mr. Jack Cahalan  
Township Manager

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Glenn Kern  
President of Council