

LONDONDERRY TOWNSHIP BOARD OF SUPERVISORS WORK SESSION
February 22, 2006

The Londonderry Township Board of Supervisors held their Work Session on Wednesday, February 22, 2006, at the Municipal Building, 783 South Geysers Church Road, Middletown, Pennsylvania, and beginning at 7:00 p.m.

Present: Ronald Kopp, Chairman, Board of Supervisors
 Anna Dale, Vice Chairman, Board of Supervisors
 Andy Doherty, Member, Board of Supervisors
 William Kametz, Member, Board of Supervisors
 Daryl LeHew, Member, Board of Supervisors
 Steve Letavic, Township Manager
 Jim Jenkins, Assistant Secretary/Treasurer

Items Addresses:

- 1) Citizen's Input
 A) George Kroger- Laufer Hills

- 2) Approval of Minutes- Board of Supervisors, February 6, 2006

Mr. Lehew motioned to approve the minutes as presented, Mr. Doherty seconded. Motion approved.

- 3) Gary Roeder & Aqua America- Sewer for School Heights Village Dev

Mr. Knupp turned it over to Mr. Roeder.

Mr. Roeder- About a month ago we submitted information about Aqua America the proposed owner operator of the Sewer treatment facilities for School Height Village, and you received that information. Between now And then I hope that you have had a chance to review that information. I have with me tonight, Mr. Bern Stromberg, Director of Corporate Development for Aqua America and Dr. Hugh Archer, Deputy Secretary of DEP, who has been working with us in collaboration with the Sewer treatment facility owner and operation of School Heights village. Before we get to the point of explaining about Aqua America, we have had specific requests and this is where we would like to come to resolution this evening, if possible, regarding the matter of the sewage facilities at School Heights Village. Particular to the January 16 letter that I wrote, indicating a brief history but also getting the Boards direction and approval moving forward with using Aqua America as the operator and owner of the sewage facilities for the project. And specifically we have had a conditional use approval for this project and the Board has directed

us to talk to Mr. Dobson, who is the owner of the adjacent Mobil Home Park, relative to the potential of using that sewage treatment facility, which would require upgrades and expansion. It is the location for the new treatment plant, right now Mr. Snyder, the developer of School Height Village, is in negotiations with Mr. Dobson. Those negotiations have, as you can imagine due to the various complexities of the situation particularly as they relate to the ultimate design, operation, ownership, maintenance costs ect..., been long but underway. What I want to do this evening is to let Bern go through the Aqua America scenario and also mention to you is something that we need to keep in mind that there is an opportunity to discharge on-site, our site, given that the negotiation with Mr. Dobson are not able to be consummated. Therefore, we want you to be able to look at this as viewing Aqua America and its responsibilities, regardless of where the facility is going to be located, because we are still faced with 9 months of negotiations with Mr. Dobson to come to that resolution. The only other resolution after that idea, if that should fail, would be to discharge on our own site, which I have mentioned before and I have had meetings with DEP to look at the discharge point, and from their standpoint they have approved that location for discharge, so that is still an option for us. Mr. Roeder turned the floor over to Mr. Bern Stromberg.

Mr. Stromberg introduced himself and gave a brief overview of Aqua America. Stated that Mr. Roeder and his company approached Aqua America regarding their proposed development and we are prepared to come in aid, assist, consult, and lend our expertise to either the upgrade of the existing facility or construction of a new facility if necessary. I have passed out some information and my card, if you should have any questions please feel free to call me. If you have any questions, I can answer them now or later, I am not sure if you have had a chance to review the information or not.

Mr. Kopp stated that they have had this information for a while and asked Mr. Stromberg to give the Board a quick overview of how this would work. Where the Townships responsibilities would lie and where Aqua America's would lie. Mr. Stromberg stated that the development proposed at this point, they would want to come in and be the provider of water and wastewater operators. We will be determining on the plant for the system and we will operate it with our licensed operators. He stated that they had response 24 hours a day and the plant would be fully automated. As far as your responsibilities for the plant would go, we are here to operate it. Mr. Kopp asked and in case of failure, who is responsible the answer was we would be. Follow-up from Mr. Kopp was that ultimately the governing body is the one that is responsible if you were to default or go out of business then it would eventually come back to us, is that not the case. The answer was that is correct, if we were to go out of business, but we have been around for over 100 years and I did include our 2004 annual

report with the information I gave you and you will see that we do run a very tight ship. We are obviously planning to be in business for the next 100 years as well. Mr. Kopp asked once the plant is constructed and meets all the requirements, is that a public or private utility. Mr. Stromberg stated they are a private utility. Mr. Kopp asked but it is regulated by the PUC and the answer was yes, Mr. Kopp stated but it is still a private entity. Yes, we are considered a private entity but we do have a tariff from the PUC and we must abide by that tariff, for both our water and wastewater operations. Mr. Kopp- and you are going to be providing the water also, the answer was yes, and Mr. Roeder jumped in and said let me make a correction there, Pa American is actually providing the water for this development, that is another private publicly regulated business. Mr. Kopp asked as far as the DEP approval, is there any guarantee that that is going to happen. Mr. Roeder said no, we have not made any applications other than meeting with DEP on site. We have quite a lengthy processes to go through for permitting. Mr. Kopp, I was at a conservation meeting about a month ago and there was a south central conservation officer there and he stated that there was no longer any new plants being accepted as of August, unless they were already in the 537 plan or already approved and this site has not been either, correct. Dr. Archer can you fill us in on that, because that is the question I have not gotten a clear answer on yet. Dr. Archer stated that what you heard from the conservation district is correct, the proposed tributary strategy for the Chesapeake Bay has taken a position that there are no new points of discharge, which actually constitutes 53% of the commonwealth. Unless you can offset the increased loads or trade the loads. The packets that were prepared is offering an offset. The trick is going to be that you have an area in the township that has some malfunctions and the department is probably going to want tied into the plan. The offset may not be enough to accommodate the existing residents, so we are going to have to negotiate. But there is enough offset for this plan for a new discharge in the basin. If you have not seen it yet, we have met with the central officer in the region to talk about a plan for a new load and there is sort of an agreement. The trick is going to have them accept your existing resident's to tie into the plant. Mr. Kopp asked, Gary it goes back to the discussion that we had that this plant would be a big enough size that we could go over to brayburn and tie into those problem areas, is that still an option. Even if the Dobson relationship does not workout. Gary said yes. Dr. Archer stated that the Department is going to require that. Mr. Kopp stated that he thinks that we as a board are really not interest in looking for another private plant unless we can take care of some of the problems we have outside of your project. I think I am speaking for the board there and the Board said yes, so if you are going to stay within the confines of your development there then we are not interested in pursuing this project, but if it is going to fix some of the problems we have out there now, then

we are more likely to be in agreement. Mr. Roeder stated that, the two components that do not change regardless of location of the plant are the School and Brayburn. Mr. Kopp- the discharge point is suitable for both of those scenarios, Dr. Archer said Yes. Mr. Kopp- you have already determined that. Dr. Archer- DEP has determined that. Mr. Kopp asked if there were any other questions from the board. Mr. Kametz stated that he had an opportunity to research the firm and look into some of its history and some financials and projects that they have done. The one I was a little familiar with was Abbottstown. You just negotiated with a project over there, which is not that far from here. My point was they appear to be a very creditable organization and they appear to have the necessary skill set and expertise to manage such an operation that I think it would be beneficial for us to continue to work with them here in the Township. Mr. Kopp asked Mrs. Dale for her comments. Mrs. Dale stated that they answered one question she had. As it being a private entity that is regulated by the PUC. At such time could there ever be a scenario where you would choose to sell off this particular property for whatever reason. Is there any kind of assurances that would not happen or in other words where we would be forced into a situation where the Township would have to take over? We have made it very clear that we are not interested in running any kind of sewer operation. So, is there some kind of history to fall back on that once you have one entity if it does not seem as profitable that you would sell it off. Mr. Stromberg stated we are not in the speculation business we are not looking for this or any other project to increase in value and then sell it off. We have never sold any plant or asked to purchase, we like to become part of the community. We are a PA company and that is where we are going to stay, I can state again we have never gone into something that has increased in value and then sold to a higher bidder. Mrs. Dale- so you have not sold off. My other question is that given our Township really does not have any kind of utilities and we are looking at being on a precipice of some expansion, either in the near future or down the road, would this type of facility, notwithstanding the Brayburn and the School, have the capacity to be expanded. Mr. Stromberg- We do build plants with the possibility of expansion. We do not force expansion, but we are capable of expanding if necessary. Mrs. Dale- At such time that our Township was required that we have the Township serviced by a public system. Could this system that you're proposing be tied into a larger system. Mr. Stromberger- yes they could be tied in. Mr. Kopp asked Mr. Lehew for comments. Mr. Lehew- Dr. Archer had indicated that part of the regulatory process here in order to build the plant or get a permit was to use Brayburn as the offset or another facility or another part of the Township as an offset. Dr. Archer- as long as it is in the basin and we can match load for load that is considered an offset. Mr. Lehew – you used Brayburn as an example, well you said that there were facilities near by that have faulty or malfunctioning systems

and that is Brayburn. Dr. Archer- yes Mr. Lehw- Who would build the lines from Brayburn to your facility. Dr. Archer- in all likelihood you as the responsible officials would have to secure loans for this. Mr. Lehw- I understand all of that and what we have made abundantly clear we do not want to be in the sewer business here. We are working out deals with Derry Municipal Authority so that we do not have to get into any operating systems. Is that any type of process that you do. Mr. Stromberger- We do expand our systems on demand to places that do not want to be in the wastewater or the water business. Often times involved in customer participation and some cost per customer numbers to offset the cost of actual installation of the collection banks or distribution systems. We would have to work it out and investigate it of course, but we do take on such projects as that. Mr. Lehw- so you would be open to running the lines to Brayburn, into your plant, is that what you just said. Mr. Stromberger- at this point, if it is feasible and in a situation like this we would look to work with the developer, to facilitate that yes we would. Mr. Lehw- again we are not, in this point building any lines or maintaining any lines. Dr. Archer- the development has to get a 537 approval first, then goes to DEP and in that 537 proposal I would strongly suggest that you address Brayburn. Mr. Lehw – I think it is addressed in our 537 plan. Dr. Archer- no in this one. The department is going to want to see an agreement with you the local authority access to the plant whenever you need so you get copies of all the reports. If you were to decide and our builder and developer agrees to actually go and secure funding and put the lines in for Brayburn, you would need to give them the authority to do that, that is what DEP will be looking for. Mr. Lehw- we know that part, I am just interested in if they do that type of service. Mr. Stromberger- we do those types of services. Mr. Kopp asked Mr. Doherty for his comments. Mr. Doherty – Aqua America is primarily a water supplier versus wastewater treatment. Mr. Stromberger- we do have 19 waste water systems in Pa and serve over 64,000 customers nationwide. Mr. Doherty- But over all percentage wise what would you say the percentage is. Mr. Stromberger- we started out as a water company that is our original strength but our wastewater keeps growing but our water customers far out way our waste water customers. Mr. Doherty- would you say it was 5-1, 10-1 Mr. Stromberger- maybe 10-1. Mr. Kopp asked if Mr. Foreman if he had any thing to add. Mr. Foreman- You said that you could provide service to Brayburn, at either of these locations could you do this without a pumping station. Mr. Roeder- that depends on whether or not we can get through the Dobson property. I think if we can then we do not need a pump station. We do not have any design for that property, but if you look at the low points it looks like you could get down through close to the creek through the Dobson property and into the treatment plant, if it were there. If it were not there then we would probably have to have a pumping station and pump it over to our site. That is my feelings

on that. Dr. Archer- the proposed plan is to put the new plant as close to if not on the same footprint of the existing one. And as a last resort a pump Station, I mean gravity is always first. Mr. Kopp asked Mr. Letavic if he had anything to add. Mr. Letavic asked if they put this plant in you run the lines down, is there going to be any mandate for where the lines go by for the existing residents who do not need this, would that impact any residents, would they be forced to hook on to your lines. Mr. Stromberger- no one is forced, everyone has a choice. Dr. Archer- only if your ordinance would require this to happen. Mr. Stromberger- no one is forced by Aqua. Mr. Letavic- ok. Gary Roeder- we need to be clear about this, the way your ordinance is that public sewer and public water are required for the conditional use that you have approved and this is the only method that we know of today to deal with to provide that. This is a privately owned company, but publicly traded and publicly regulated but it is not a municipal authority. So, it is kind of a hybrid, it is not a municipality but it is run exactly the same way. Mr. Kopp- what is your next step Gary, you are looking for agreement from this board to pursue this option, is that what you are asking from us. Gary Roeder- Yes sir. Mr. Kopp- If that is favorable then what, it goes through all the regulating process. Mr Roeder- Yes, we have already put together the planning module plans, and they get that in the works right in front because that is a long lead item, permitting and planning we are going to have to work with Aqua America regarding design details. At the same time we be going with Mike Salvo at Pa American and then I think, given the status of all the other things that are going on and the uncertainty of that whole picture, I think Mike is going we are going to just find a different way to come over to the site then what we had planned originally. Unless he feels like he can bring it through the Lytle property. But those two things will happen simultaneously, getting the agreements, get the planning modules to the board for those purposes, and then the pilimenary plans will be designed. We have already got clearance from Penn dot for the entrance and I believe you wrote a letter indicating that you did not want tie ins to Beagle road, except for emergency access, which we have confirmed with them and that is fine. We make come back to the Board and talk to you about additional commercial zoning in the front. Which is something that you mentioned you would like to see, I have not talked to Mr. Snyder about that. Dr. Archer- We may, just because it is such a novel approach, we probably will make a silent submission to DEP before you take your actions. So that when you do take your action you have some assurance the department has already agreed to the offsets. Mr. Kopp- that would be my concern that we know that up-front, because at this point we have no assurances. Mr. Roeder- Nether do we, other than the people we have been talking too throughout the project. It does not obligate the Township to anything, we need to get something to DEP to flush out any kind of issues that maybe unresolved in their minds. If they say no at the end of

the day, we are back at square one. Mr. Kopp- that is kind of where I am sitting thinking. We say go ahead and pursue this and DEP says no then it is out of our hands and yours. Mr. Roeder- Yes we realize that, it is all subject to DEP approval, I am just looking for the Board to say hey go ahead with the stream discharge, go ahead with Aqua America, go ahead with Pa American. Mr. Kopp- How do you propose that those two separate entities come together simultaneously, suppose one is ahead of the other, you just have to wait until the other one catches up. Mr. Roeder- Yes we have done this before, they will be timed and it is not going to be a problem. Dr. Archer – DEP has already been consulted, as soon as we can make a determination as to whether or not the Mobil Home is tied in, that is the crucial link, and where the plan is actual showing the discharge. An unofficial submission will be made and it has to go pass our regional office or headquarters first before I will come to you with a package. I do not want you to sign off on something that I sent to DEP and then they turn it down. Mr. Kopp- Right that is all our concern. Mr. Letavic- Is there any impact on floodwater, rise in the stream, adding to the stream volume there now. Because I know part of the area that I think you are going to discharge this floods very heavily. One of the concerns I have, is going to raise the volume of the existing water in the stream, does that up the flood load. Mr. Roeder- No, this is about the same as someone filling a straw up and discharging that straw into the Susquehanna River, it is miniscule. Mr. Kopp- Storm water does not affect this plant. Mr. Roeder- no this will be built to today's standards, the lines will be tested and your engineer will be part of that, Aqua America is definitely be interested. They do not want extraneous flow to have to treat. Mr. Kopp- that is where you hear these horror stories with these old city designs, the floodwaters come in and then the sewers get filled up and then you have a mess. Mr. Letavic- I have your 2004 financial statements, when will your 2005 financials be available. Mr. Stromberger- usually in March, I can make sure that you get copies as soon as they come out. Mr. Letavic- One concern that I have, in reviewing your financial statements, it appears that your debt to asset ratio was out of balance, with were I would like to see it as an accountant. You have a 2 to 1 debt to asset ratio, that means that you do not have a lot of assets to offset anything that a creditor would come, if they needed to. I also looked at your Cash Flow statement, I did not see that your cash flows from operations actually supported your operations. They were supported through financing through other sources. Mr. Stromberger- we do have our financing out there, but I can assure you that we have an A++ rating. Mr. Letavic- I understand that but cash flow drive industry and that is one of the concerns, that I would like to see your 2005 statements and see if there has been an improvement in your financial position over 2004. Mr. Stromberger- Actually I can give the last 5 years if you would like. Mr. Letavic- that would be great thank you. Mr. Kopp- No other questions, I

guess we are looking for direction to proceed, what would our option be if we do not proceed. What are your option, wait for public utility to come in? Mr. Roeder- We talked to Derry Township municipal authority, they are in line with this approach that we using. They feel it is the best thing for the area, however they did say in the event that they would have to do something they would entertain that. Mr. Kopp- they are just too far away for that to happen. Mr. Roeder- this only contingent upon Lytle happening. If Lytle does not happen then we are just sitting there with no other place to go, it is to far to go out Lytle, but we have Zero confidence that that project is going to move forward, frankly I have been lead along for a long time. Mr. Letavic- one more question could I also get a copy, an update on your pension plan liability. I noticed that when I reviewed your financial statements that your pension fund is also under funded and that is a long term obligation that we need to be sensitive to. Mr. Stromberger- no problem. Mr. Kopp- If we would give you a consensus to go ahead with this type of approach we are still not garunted of anything. It still has to meet all the approvals from DEP right. Mr. Roeder- Yes, the whole issue that we want to resolve is we do not want to go down this road and spend all this money and then find out that the Board does not want to go down this road. Mr. Kopp- I think when we heard the latest word that the Dobson deal may fall through, if your not going to fix the problem outside your boundaries than we are not really interested in talking business. Mr. Roeder- we are going to fix the Brayburn and the School. I do not know where the plant is going to be yet. That is the Dobson negotiations, but we do not have any control over that we are trying to work this through if it works out that is great, if it does not then we will put it somewhere else. Mr. Kopp- That is our concern, we want to make sure that the problem outside your boundaries is fixed. Dr. Archer- DEP will not allow this to happen without fixing that problem as well. Mr. Kopp- You know from past experiences what we are dealing with out there right Dr. Archer. Steve(citizen) are you taking any comments or questions from the public. Mr. Kopp- Yes go ahead. Steve- I just wanted to clarify and make sure that I understood and everyone else did. The Manager asked if the sewer lines outside the project that went in front of other residents that they would have the option of tying in or not tying in. I wanted to make sure that that is the case, because DEP has a requirement that if there is public sewer with in 150 feet you tie in. Dr. Archer- No, that is a local ordinance not DEP. The only way that you are going to be forced to tie in is if you have an existing line and a line is accessible. Steve- Ok then on the other hand then DEP is saying in order to meet your trade off with your loading you have to tie in. Dr. Archer- no there is a lot about tying in Brayburn as a negative for the off set. Steve- I was not clear on that. Mr. Kopp- Jim you want to clarify that. Mr. Foreman- Dr. Archer is correct that is a local ordinance, however previous meetings Derry Township is requiring us to adopt that ordinance, so we can not adopt it for one side of the Township

and not the other. Steve- I am just saying if you approach this and come across that we are going to solve 90% of Brayburns problems, but then the homeowner 90% opt out, that is an area that you will want to be careful. Mr. Roeder- the one key here is that you cannot build infrastructure to Brayburn and only have five people hook up, that does not work financially. So, we are going to have to go through those steps and figure out how that is going to be managed, we will work with you obviously to do that. But that is going to have to be worked out especially from Aqua America's standpoint because they are the ones that are going to be doing the dollar and cents associated with it. Mr. Kopp – it is still unclear, at this point it is not determined if that ordinance is going to have to be put into place, if we come in front of your house and less than so many feet away you have to tie in, whether or not you just built a new \$10,000 sand mound and system last year. That is the concern that some of those people have out there, I just spent all that money and now I have to turn around and pay to be tied into this project. These answers just are not final yet, we cannot promise either way. That is the best we can say right now. Like you said if we put the infrastructure out there and no one hooks up then why did we put it out there in the first place. Mr. Kopp – Any other questions. Ok, I am looking for direction from the Board, favorable to proceed with this option, I just asking for some type of direction. Mr. Kametz- I would be in favor of proceeding at this point of time, we have talked a lot about utilities to the Township and trying to find proper access point and we have only had a few developments that have gotten this far and we ran into issues with sewer and we relied on Derry Township. Now Aqua America would be a good partner and is open minded to working with the Township on addressing some of the old issues, such as Brayburn, but then we have to be willing to work with them and make it economically feasible if things would work in that fashion, tying into other parts. This is a discussion we have been having for 20 years now, so I would be in favor of being responsible and bringing utilities, both water and sewer, into the Township and allow such areas as the school to have access and eventually the Golf course, which has had water issues before. I think this would be a very positive affect and we appear to have a good partner to negotiate with. I would be in favor of purposing this. Mr. Kametz made a motion to pursue the negotiations with Aqua America to bring wastewater treatment to this particular development, Schoolhouse, and to keep this dialogue open to address the other issues that surround that particular project. Mr. Lehew 2nd motion, Motion carried. Mr. Kopp- point of clarification, how much involved are we going to be in this project, I think we need to feel involved, because if at some point along the way it turns the other way against what we think is our intentions. We want to have that authority to say wait a minute this is not what we agreed on. Mr. Kametz- is there a way that could work with this developer in a sub committee fashion. Because when we dissolved

the General Authority, we as the Board took that on responsibility. Would it be far for the developer, to address just what you had stated to work with them throughout the month, is there an opportunity for this Board to act in a more responsive fashion then saying you have to come to a monthly meeting. Then start negotiating when we can do that differently. Mr. Kopp- is that a problem Dr. Archer? Dr. Archer- No, I asked Gary if he had a problem coming to a monthly meeting and Gary said no. Mr. Kopp- Our concern is that we do not want this thing to get away from us. Mr. Roeder- I agree Mr. Snyder has been always interested in that exchange that way. We want to work with you we want you as a partner. Mr. Lehew – I would prefer that you would give enough lead time to give what you are going to talk about to our manager so we have time to look it over and make good comments to your wishes or choices. Mr. Roeder- I agree and we will make sure that you have it with plenty of time to really look it over. One other item, just make sure that we are all still on board, on the waterside is Pa American still your position. Mr. Lehew- Yes we signed an agreement with them. Mr. Roeder- I just wanted to be sure I would not to have anything come back to me. Mr. Kopp- there is no option for them to turn water out of the well some where on that site is there. Mr. Roeder- Well I just wanted to be very frank with you the Board has given me a very strong feeling that they do not want to see wells on the site. Developing a water supply at the site was a non-option. Mr. Kopp- Right we went through that before. Mr. Roeder- Pa American was coming through there anyway, so I did not even discuss it with Aqua America. Mr. Lehew – yeah that would be a deal buster for me. Mr. Kopp- we did discuss that before. Mr. Roeder- thank you very much Mr. Chairman for your time.

- 4) Planning Commission:
Mr. Foreman and the planning commission there was some discussion on the plan and attached is a copy of the plan that was agreed upon;

Proposed Policy for Submission of Plans

1. All plans shall be submitted 30-days prior to Planning Commission meeting to include 15 sets of plans.
2. The plans will be forwarded to Township Engineer and County Planning Commission.
3. Within 2-weeks the Township Engineer will forward comments to the Township.
and applicant.
4. The Township will send the comments, along with a copy of the plan to the Planning Commission members and Township solicitor.

5. When the Planning Commission is satisfied that all comments of both the Engineers and the County are satisfied, and all concerns of the Planning Commission have been addressed the Planning Commission will recommend to the Board of Supervisors for a approval.
6. The only contingencies that will be allowed are outside agency approvals, such as D.E.P., E & S, notary and signatures.
7. ALL other items must be addressed before the plan moves past the Planning Commission.
8. At that time a copy of the plans will be sent to the Board of Supervisors.
9. Six (6) papers and one (1) Mylar of final plans signed and sealed are required.
10. All plans shall be returned to the Township.

Mr. Lehew made a motion to approve the 9 step process. Mrs. Dale seconded the motion, motion approved.

5) Treasurer's Report- Jim Jenkins

Mr. Jenkins presented the month to date as of 2/22/06 balances for the General and Golf Course funds.
General Fund balance as of 2/22/06- \$254,500.03
Golf Course Fund balance as of 2/22/06- \$79,530.35

6) New Business:

Sam Naples gave an update on the NIMS training and recommended the supervisors get IS700 certified. Mr. Kopp directed Mr. Letavic and Mr. Naples to work together to have a joint training with the supervisor's, office staff, and road Crew.
Mr. Naples invited the board member to a meeting April 26th at 7:00pm at the Dauphin County EOC.

7) Public Comment:

Mr. George Kruger:

- On this Lauffer Hill thing, what stage are we at. Are we still on sketch plans, piliminary plans in this approval policy. Mr. Kopp- we do not have any plans as of yet, is that correct Jim. Mr. Foreman I read something today that said they will submit piliminary plans in April. Mr. Kopp- Right now we have sketch plans, the only thing that came before this Board is to seek conditional approval of a cluster

option. That did not include plans, other than the sketch plans that we saw where they were going to come in on Elwood and go out up around Round top. That is all we have. Mr. Kruger- Who approved the status, the planning commission or the Board for the Cluster. Mr. Kopp - Everything goes through the Planning Commission as an advisory, they are the advisory committee to this Board. Their committee reviewed that and approved the Cluster option, because it met all the six criteria that the cluster option has. Then they brought it to this Board and we turned it down. Mr. Kruger- I beg to differ that it meets the six criteria. One of the criteria is ease of road maintenance, efficiency of utilities is another one. The plans that I saw had a lot of long dead end streets, they are not easy to maintain, they had houses on one side of the street, that sure is not efficient. So, I do not see why the Solicitor or whoever is saying it that we cannot deny it, we have no basis. Mr. Kopp- Well, Jim do you want to address this. Mr. Foreman - They showed facts that the cluster option, in comparison to the by right one acre lots, would have less mileage of road. So, that meets that requirement. I know what you are talking about with the dead end streets. The original plans showed four or five of them. We are now down to two and we have expressed interest in minimizing those dead end streets, also I discussed with them the possibility of a modification of a cold sack to have a grass area in the center to eliminate that dead end approach. So, those are all things that we are getting worked out through the planning commission, possible work sessions, we will have with those people. We will not see their next set of plans until April, possibly now with this 30-day requirement, that could delay it even more. Mr. Kruger- the other problem I have the way I am reading the code, they cannot use the cluster option to gain more density than they could get with by right. Mr. Kopp- that is correct. Mr. Kruger- how do we know what that density is unless it is laid out in one-acre lots? The way they did some math they are using every square inch of that, and every square inch of that site is not developable. Mr. Kopp- that is correct, I understand what you are saying, you are saying they used that in their total acreage to come up with 99 units. Mr. Kruger- if they lay that out with one-acre lots, I guaranty you they cannot get 99 houses in there. So they are exceeding what the code is saying density wise. Mr. Kopp- do you have an interpretation of that Jim. Mr. Foreman- I think the interpretation is that the code says you can put one house per acre. And yes in reality could you go out there and do that, you probably could not. But I do not think that affects the number that they are permitted under the cluster option. Mr. Kruger- Then they did not meet the criteria. Mr. Kopp- George you are saying because of those sensitive areas, if they carved them out and set them aside, they

would not have the density of homes. Mr. Kruger- let's say for the sake of conversation if they laid it out in one acre lots they can get 70 houses then that is the number, that I am reading, they should be held to with the cluster option. I think that it is a weakness in the way that the code is written. I think, it maybe too late for this one, but it is something that you guys need to look into some better way of determining the density. Mr. Kopp- we are in agreement with that statement, that we need to re-look at this, because the way that ordinance or option is written, one place it says shall and another it says may. So, it is contradictory there, and we are in the process of setting up a review of all of our ordinances to try and correct some of the loopholes. You are correct it is not going to do solve anything on the books now, but we learned something from this particular case. Mr. Kruger- the other thing I was hinting at a little while ago, I might be wrong, but when it was at the planning stage there was no public input at that stage. So, by the time they refereed it up to the Supervisor's the public did not have any chance to comment. Mr. Kopp- I know and that is what Anna was referring to with Silver Spring Township that we may start instituting a public hearing at that point. Because once it starts getting to the final plan, approval once it gets to us. Some of that discussion is behind us. Mr. Doherty- We have the same problem. Mr. Kopp - yeah because we have the same difficulty too. Once that plan is here for our final approval, if it meets our ordinances, we have no input at that point. We cannot deny it, even if we do not feel as though it is a good plan, if it meets our ordinance's then we have to approve it. This whole discussion was not whether we were going to allow this development, but rather how we were going to allow this development. I think everyone is clear on that. We have no ordinance that says we do not want a development out there. You understand, this was going to be developed one way or the other. The discussion was whether it was going to be by the by right or cluster option. Mr. Kruger- to be honest with you I am more in favor of the cluster option, I think that it is better at the right density. I just think they are over doing the density, and that is why I am pushing the by right option. Mr. Doherty- I think when they submit their preliminary plan, that is when we can re-visit that again. Mr. Kruger- someone said at one of the meets, that as they get into more detail we can look at the density a little closer. And the density may still change, it may not be fixed at 99. Mr. Kopp- I agree with what you are saying, with the By Right plan if it was what they were going to work with, they are not going to get 99 lots. I know the terrain out there just enough to see that that would not be possible. I understand what you are saying about the density issue. Mr. Kruger- the other thing is that if they do it By Right, they would have lots that are half

wetlands and they would not be as marketable. They are in it for the money, the cluster can make more money for them and they can get more houses in. I think we just have addressed that density thing. Mr. Kopp- as far as the public comment at the planning commission, they are open meetings as well. You can come to those meetings, just like you come here and address the Chair and ask questions at that point. I think that is what some of the citizen's feel that sometimes they are short-circuited with that input, but that is not the case. Every meeting is a public meeting and every meeting has the option for you as a concerned citizen to raise questions to the Chair of that meeting at that time. Mr. Kruger- One other question that I have, in the little article in the *Patriot* they referenced a PA Municipalities Code. What is that? Mr. Kopp- the MPC, that is what we are bound by. Mr. Kruger- so that overrides the Township Ordinance. Mr. Lehew – That is what we build our ordinances on. Mr. Kopp- Yeah, that is what our ordinances are built around. Because we have to go by those guidelines, each Township has their own nuancious to that. Mrs. Dale- I was going to say, there are also a few municipalities, particularly in the higher sections of Dauphin County, that do not have a Township specific ordinance, so they rely on this County wide and State Wide general ordinance. But as individual Municipalities we can take those ordinance's and tighten them down a little bit more, specific to our local. I think that is what the Chairman is referring to in this case. We have talked about this issue because of things that have come up in front of the zoning hearing board, that they were adopted in '78. Some of the circumstances from then to now are greatly different and we need to find a way that we can incur the cost of having our codes evaluated and determine what needs to be tightened up, what needs to be expanded, what is good, what is not good. I do not think that it is going to be easy, because it is a huge book and it addresses everything from Zoning to business to everything. It is one of those things that is going to be a long process, but it is something that dictates what we can and can not do. Mr. Kruger- Say the Cluster option was that ruled on by the Township ordinance or the Pa Code. Mr. Kopp- We created that ordinance, we created that as a conditional use option. Which means they have to come to public hearings, state their case and meet the guidelines, the 6 criteria, basically state their case why that should be granted to them. Mr. Kruger- I still hold that they did not meet all six criteria. Mr. Doherty- I think that is it is important to note that the County as well as our own planning commission approved the cluster option. When we met in the back room, we discussed litigation and whether or not we wanted to take this

into litigation, which our Solicitor insured us that we would lose. Mr. Kruger- So in other words the County can override your vote. Mr. Kopp- No the County cannot override us. As I stated the planning commission is an advisory to this Board, they do all the legwork and gather all the information. They take that and say this is what we are going to recommend to the Board of Supervisor's. That is what they did, they recommended to this Board that we approve the Cluster option. The County at the same time comes down with a recommendation. They have a checklist if it meets all the criteria for a cluster option and they also agreed that it met those criteria. Mr. Doherty- At the first meeting the County laid out the criteria and said you do not meet these criteria and they went back re-visited their own plans and changed some things until they were in compliance. Mr. Kopp- So the county does not dictate to what we do, they make their opinion, separate from us likewise the Planning Commission took all that information into account and made their opinion to us. And in affect we went against both of their opinions, we said We do not think We should grant this cluster option. That is when we had to go into executive session. I want to make something clear, these executive sessions are for very distinct purposes, Legal matters, personnel matters, that cannot be discussed out in the public. It is not behind close doors meeting so the citizens do not know what is going on. We came out of that, executive session right away told everyone what we did. We met in executive session our advice from Council was we could not win this battle legally or financially it would cost us more money than we would ever want to try and incur. That is what we did back there, we did nothing in the back room that is circumventing the situation. Mr. Kruger- it just seems as though that should have taken place at the meeting when you made the decision. Mr. Kopp- in the December meeting? Mr. Doherty - Our Solicitor probably should have brought a lot of those points up and our Solicitor probably should have made the Board aware. Mr. Kruger - Yeah He probably should not have sat there let you guys turn it down and then change courses after the fact. Mr. Lehew- we agree. Mr. Kopp- That is a good observation, but that is water over the dam. I just want to make sure the public understands the process we went through and those were the facts that were presented to us at the February 5 meeting and that was the outcome. Now, from this point forward those preliminary plans when they come in, April or May, they are a fresh set of plans that is when, if you want to be a diligent citizen, you can be there walking through that with them, asking the questions, asking the tough questions. Because frankly the planning commission is there learning this with everyone else. They only have a sketch plan and they are probably already have some preconceived

ideas of what is right and wrong with the sketch plan. But because it has not been presented yet, nothing has been voted on. Mr. Kruger- One other question, the sewer for this development where is that tying in or discharging, I am hearing that the state is not letting new points of discharge. Mr. Kopp- that is true, but the sewer will go to the Derry plant, on the creek road there. To an existing plant, it will be a force main there. They have discussed that with us in this process it would come up through under the Turnpike I am not sure where it would come out. Mr. Saggy- I had reservations, only because what they said, they did a desktop traffic study and the information they were giving to us was total bull. I really felt that the information they were giving to us was totally inaccurate, I mean they said there would be no impact on the roads. I totally disagree with that, I did agree with the Cluster Option. But only with reservations, that they do a traffic study that was accurate. Mr. Kopp- they did that when the pipe was out down there, right. Mr. Saggy- I am not sure when they did it, but I was totally appalled by the response from his point. That is my biggest objection yet, the infrastructure is not there, even 70 houses. Mr. Kruger- they said that every road and intersection was A rated and that is totally outrageous. Mr. Lehew- we understand that, that was our concern with that as well. Steve(planning)- well then see now, does it meet your criteria or not, I do not know. They say it does. Mr. Lehew- we do not know that for sure because that is coming before you guys, a true traffic study has to be completed and if you are having concerns with what they did now, that is when you raise it with them again. This is when you have to be forceful with them, not beyond the ordinance, but if it says it allows this, you do not want them to do that. I have concerns with it going up Schoolhouse. I have made comments about, with this project we talked about tonight, not allowing it to go into Beagle. Maybe we can do something there, because we do not have an open road there at Elwood. Mr. Saucey - the one that is really bad is the there at the corner of Schoolhouse and Newberry. That is terrible, that was one of my concerns. Mr. Kopp- George anything else? Mr. Kruger- no thank you. Mr. Kopp- Jim. Mr. Foreman- just to answer some of Georges questions. You mentioned that the planning commission meetings are open meetings and I understand that these people have better things to do then sit at every meeting we have. If they call in here the week before the meeting we can tell them what is on the agenda so they know whether they know what is going on that night. Also the Municipal planning code is not a zoning book, it is merrily a set of rules that tell us how to use our zoning. Mr. Lehew- it is a guideline. Mr. Lehew- what I am saying about Elwood, if for chance we do not open Elwood up, and I am not saying we can not, the scenario you are talking about does not exist. Newberry and Schoolhouse does not exist, it all

goes down to Roundtop. Which cannot handle it either, but it is a state road. Mr. Kopp- Dr. Rambler. Dr. Rambler- question about the public announcement in the *Patriot* on February the 12th. The date they gave for the deemed approval was, February 7, 2005. That was not a mistake, that was a Supervisor's meeting. Mr. Kopp- Yes it was and it said what? Dr. Rambler- it said that was the date it was deemed approval. Mr. Kopp- yes that is when the time ran out, we asked them for an extension to that date and that is why the date coincide with the same date we met. Dr. Rambler – You asked who for an extension. Mr. Kopp- Longleaf, we were between a rock and a hard place, because they had already received the deemed approval according to their interpretation of the law. Because we went pass the 45 days, right Jim. So, then we said would you allow us the courtesy of bringing this to our public meeting on the 7th so we can discuss it in a public forum. That is when we went into our executive session with our council, that is when we made the decision, we have all the information now and we probably cannot win this unless we pump a lot of money into it. Dr. Rambler- that is fine, but it was in '05. Mr. Kopp- that was a typo it was in '06 not '05. Dr. Rambler- I do not think that it was a typo, there was no meeting on February 7th in '06. Mr. Kopp- we met on February the 6th and it became approved on the following morning. If it said '05 that was a typo it was '06. Dr. Rambler- that is a public announcement there should not be any typo's because that is a very legal announcement. Mr. Kopp- I can not answer that question, but I am telling you the facts are we met on the 6th and our council advised this Board that we could not fight this and win. He made the opinion, correct Steve, Mr. Letavic- Yes Mr. Kopp- He wrote the opinion that was dated the 7th, the following morning. Is that correct Jim? Mr. Foreman- I think that is what happened. Mr. Letavic- that is how it happened, he wrote the opinion the next morning. Mr. Kopp- whatever the Press said I cannot verify that, we know what happened, we were all part of it. We have no control over what got printed in the paper. Dr. Rambler – that is a legal announcement. Mr. Kopp- I understand that, but I just telling you what happened. Dr. Rambler- That is a legal document. Mr. Kopp- well then, the *Patriot* should be found liable because they did not print the right date. Dr. Rambler- I have a question, was this discussion, or conversation you had with, and the advise you received from Mr. Knupp, who I think is a great lawyer for the Township, was this based on actual threat of a suit or notice of a suit or just because what if they do. Mr. Kopp- No it was nothing like that at all, it was taking the facts that the County approved it, the planning commission advised us to approve it and that the six criteria were met, within reason. That we have no recourse to fight it. You can fight everything, but in reality we could not come out a winner without spending a lot of tax payers money to

say well now we are just going to sit here and wait for you to prove us wrong. We did not feel, with advice of our Solicitor and the common input from all the Board members, that that was not a wise course to travel. Mr. Saucey – How can the Solicitor be sure that we would not win. From what I have been hearing here this evening they did not meet the criteria. We talked about the density, we talked about the roads, and there are not good roads. Elwood drive and Newberry, why are we not fighting, we took it upon ourselves as a Township to fight the guy at the 230 diner. Why do we not take it upon ourselves, he may pack up and leave. Mr. Kopp- Ok, Jim Mr. Foreman- the condition of the existing roads cannot be criteria for approving or disapproving the plan. Mr. Saucey- Now you just said it was, Foreman you guys are double facing talking again. Mr. Foreman- we did not, the ordinance says we can require roads within the development, we cannot approve or disapprove a plan based on the existing roads of the Township. Mr. Kopp- there is case law that says you cannot stop a development just because you think it going to bring more traffic into the Township. That is a proven Law. Mr. Saucey – then why did you tell that gentleman from the planning commission to bring it up again when they come in again. If does not have a bearing on it. Mr. Kopp- It does have a bearing on I understand. You are confusing the issue. The Issue is we have a plan here that has a conditional use option for the Cluster option, it is approved and that is what we are standing on. That is the decision of the Board from the advice of our council and that is where we are moving forward from. We are not going to sit here and rehash this whole thing, because believe me we as a Board have been through this and we understand what the concerns of the citizens had. Mr. Saucey- You said the impact of the road that would have no impact and cause no more traffic. They had the things across the road when it was closed down there. Mr. Kopp- right and that was what Mr. Ames was referring to. Mr. Saucey- well then was that a criteria that they had to meet, that is what I thought I heard someone saying. Mr. Lehew- no what I was saying was, Mr. Saucey, when they bring this plan to the planning commission that that is when they should address all these issues. That they said they meet all the criteria. Do they meet all the criteria that is up to the planning commission to determine that. Mr. Saucey- is that part of the cluster that has to be met is my question. Maybe I misunderstood. I thought it had to meet that it would not have an advisor affect on the traffic in and out. But that does not mean nothing, ok I misunderstood. Mr. Kopp- Ok let us wrap this up, Dr. Rambler. Dr. Rambler – Going forward, how much leverage does the Township have to alter plans that are brought here to reduce the number of houses that are going in there, what kind of push or power if any or is it simply a exercise to show the Township citizens your

trying to do it but it is impossible to do. Mr. Kopp- Mr. Kruger's point is well taken, if the planning commission can come up with some valid density issues, then that is a valid point. What leverage do we have, we only have the leverage of the Ordinance that are on the books at the time that plan comes on. That is all we have. We cannot impose our own will. I think that is where we got ill advice in December is meeting to say well we thought that the By Right is better, so we voted that way. But that was, in the end, our own will then the ordinance's, we have to be careful that we do not over step the ordinance's. That is the dilemma that we sit with on this Board, we can only act in our own wills and intentions to a point. We cannot go beyond that, if the ordinance says something is allowed, whether we like it or not we have to approve it. Dr. Rambler- are there any plans to work on the Ordinances to make them more up to date. Mr. Kopp- yes we have made that very clear tonight that we are looking for funding to do that process, it is very expensive, it will cost us \$50,000 to \$70,000 to do this. We all understand that there are big differences from the '78 plans that we have on the books then today. Things have changed over the years and we want to get a consultant in here and look through that ordinance to steer the direction of this Township the way the people that live here now want it to be. Dr. Rambler- yeah, otherwise we are in a very naive position. Mr. Kopp- we are very vulnerable because we are pretty much undeveloped and that the discussions we are having here now. We have proposed the 30 days for submission right here tonight, to try and get control of all that. When it comes, it is going to come it is going to come with both feet, they are going to jump right on top of us if we do not have all the rules and ordinances in place. Dr. Rambler- what is the time frame that you see us changing and amending the Ordinances. Mr. Kopp- we proposed in our January meeting that, it is going to take 2 years to do a total revamp of the ordinances. Dr. Rambler- can we call a halt until then? Mr. Kopp- No, a moratorium we already have ordinances on the book. The only way you can have a moratorium is if you do not have sewer, you can have one until you have the infrastructure built. Dr. Rambler- Can you write an amendment to take that cluster thing out all together. Mr. Doherty- yes, that was going to be my suggestion. Mr. Kopp- yes, we could do that next month, but that is not going to solve the other problems. Dr. Rambler- no, I understand that but it would not be bad. Mr. Kopp- yes, we could do that, make resolutions and change things piece meal, but we do not want to do that, we want to do the whole thing. Dr. Rambler- would not you want to take that out before you get into the whole thing. Mr. Kopp- Maybe, maybe not that is why we want to look at the whole thing. Mr. Doherty- I think that in any rate we need to revisit the Cluster option the way it is worded currently and either re-word it or get rid of it. Mr.

Kopp- yeah we are concerned with the way it is written. Mr. Lehew- yes, my recommendation would be to remove it. Dr. Rambler- one more thing, I have heard about other Township's are establishing environmental committees, is that something that this Township is looking into. That would be another level for these plans to go through. Mr. Kopp- EAC- environmental advisory committees, yes there is some of them. We have never had that discussion. East Center Township had one of them and they have dissolved, the last I had heard. But no, we at this Township have not discussed that possibility at this time. George- I think Andy or Anna were talking about the agenda's for the meetings. I know Anna's been working on a Web page that would be a great place to have one, you could go quick and find out if you wanted to come to a meeting. Mr. Kopp- yes and that is a good point, those agenda's, like Mr. Foreman talked about, they are available prior to the meeting. We have them usually Friday, and that agenda is what we are going to deal with, with hardly any exceptions. George- it would be so much easier to log on to web site than to drive over here and get one. Mr. Kopp-are we getting close to getting that up. Mrs. Dale- the site is currently up. Mr. Kopp- is Beth working on that. Mr. Letavic- yes, Beth is working on the web site, she is on a learning curve, but she is working on it. She will update it and not only will the agenda's be on it but she wants to put a newsletter on it and things of that nature to keep our public informed. This is a brand new skill for her, she is learning as she goes. Mr. Kopp- yes, we want to get that updated, because you are right that is a good point of contact. We want to make sure the citizens know what is going on. We need your input, there is only five of us up here, we can only act and react to what we know personally. If we have input from the citizens that goes a long ways to maybe swaying the outcome of a certain decision. If you are involved and know what is on an agenda and are here to discuss it then that helps us to have a better light on the subject. Mr. Lehew- this is for the manager, is there anyway that we can prioritize the agenda application on the web site. Mr. Letavic- yes absolutely we can do that. Mr. Lehew- I think that will be a good initial first step. Mr. Kopp-anything else.

Mr. Kopp Motioned to adjourn meeting at 8:54 pm, Mr. Lehew seconded.
Motion approved.