

LOWER PAXTON TOWNSHIP  
BOARD OF SUPERVISORS

Minutes of Board Meeting held March 17, 2015

The special business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 6:01 p.m. by Chairman William B. Hawk, on the above date, in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania. The purpose of this meeting was to conduct a public hearing on a stop work order issued against Joseph Fraraccio, 2517 Patton Road, Harrisburg, Pennsylvania, 17112.

Supervisors present in addition to Mr. Hawk were: William C. Seeds, Sr., William L. Hornung, Gary A. Crissman and Robin L. Lindsey.

Also in attendance was George Wolfe, Township Manager; Steve Stine, Township Solicitor; Steve Fleming, Township Engineer, HRG, Inc.; Sam Robbins, Public Works Director; Matt Miller, Field Engineer Public Works Department; Joseph Fraraccio, 2517 Patton Road; Attorney Stanley J. Laskowski, Caldwell and Kearns; and Watson Fisher, SWAN.

**Public Hearing**

Mr. Hawk explained that the public hearing concerns the Stormwater Management Ordinance (SMO) wherein a Stop Work Order was issued to a property owner on Patton Road. He noted that the owner objects to the Stop Work Order and has requested a public hearing. He noted that the hearing will be conducted by the Township Solicitor, Steven Stine. He explained that the Township will present its position first, followed by the property owner or the appellant. He noted that questions can be asked and people will be called and acknowledged by Mr. Stine. He noted that a decision could be rendered this evening or it could be delayed to a future time but in any event if it is delayed the decision would be a public decision.

Mr. Steve Stine questioned who would be providing testimony, not only the appellant but also for the Township, so he could have everyone sworn in.

Mr. Wolfe noted, for the Township, it would be himself, George Wolfe, Township Manager; Steve Fleming, Township Engineer; Sam Robbins, Public Works Director; and Matt Miller, Township Engineer Technician. Mr. Stine questioned Attorney Stanley Laskowski what witnesses he would be providing. Mr. Laskowski answered that it would be Joseph Fraraccio. He noted that his wife is available if needed but he did not think that it would be necessary. He noted for the record, his name is Stan Laskowski, an attorney with Caldwell and Kearns and he will be representing Mr. and Mrs. Fraraccio this evening.

Mr. Stine directed the court stenographer to swear in those who will be providing testimony. The stenographer swore in George Wolfe, Steve Fleming, Sam Robbins, Matt Miller and Joseph Fraraccio.

Mr. Stine requested the Township to provide its testimony.

Mr. George Wolfe noted that Lower Paxton Township issued a "Stop Work Order" on January 5, 2015 to Joseph Fraraccio for property located at 2517 Patton Road. He noted that was issued because work was being conducted which, in the opinion of Township staff, was in violation of the Township's SMO. He noted in the "Stop Work Order" provided by Matt Miller, he specifically referenced Chapter 170, Section 802.e, and maintenance responsibility of the ordinance in question. Mr. Wolfe introduced the "Stop Work Order" as Exhibit 1. Mr. Stine noted that he will mark that document as Township Exhibit One.

Mr. Wolfe noted that following the issuance of the stop work order, Matt Miller communicated with Mr. Fraraccio on January 28, 2015. He noted that he will ask Mr. Miller to detail his communications with the appellant, but he will introduce his exhibits first. Mr. Wolfe

noted that the correspondence to Mr. Fraraccio of January 28, 2015 will be listed as Township Exhibit Two. He noted it explains the stormwater management control measures that are on Lot#5 of the Patton Road subdivision which is 2517 Patton Road. He noted those specific stormwater management provisions are reference in the attached portions of the subdivision plan that were provided to the appellant. Mr. Stine questioned if this would be Township Exhibit 2. Mr. Wolfe answered yes.

Mr. Wolfe noted that it is important to introduce as an exhibit the Stormwater Management Ordinance (SMO) as Township Exhibit 3. He noted that you will need all this information to understand the testimony that will be provided by Mr. Miller and Mr. Fleming.

Mr. Wolfe noted Township Exhibit 4 contains several sections of the SMO that specifically relates to the action taken by staff.

Mr. Wolfe noted Township Exhibit 5 contains the pertinent sections of the Subdivision and Land Development Plan, providing Sheets 1, 4, and 8. He noted that these plan sheets specifically relate to the stormwater management facility for the Patton Road subdivision that specifically includes Mr. Fraraccio's property at... Mr. Stine stated 2517 Patton Road. Mr. Stine questioned if all three sheets will be Township Exhibit 5. Mr. Wolfe answered yes.

Mr. Wolfe noted that Township Exhibit 6 is the Stormwater Management Plan that was prepared for the property in question.

Mr. Wolfe noted that staff would like to allow Matt Miller, Township's Engineering Technician to explain to you the stop work order that he issued to Mr. Fraraccio on January 5, 2015 as well at the additional information that he provided to Mr. Fraraccio on January 28, 2015.

Mr. Stine questioned Mr. Laskowski if he had any questions at this time. Mr. Laskowski answered since he has not testified yet, he does not.

Mr. Matt Miller, noted on January 5, 2015 he issued a “Stop Work Order” for the subject property. He noted that it was issued based on his interpretation of the SMO as well as the development plan that was in place for this; his interpretation was that activities that were occurring on the site were in violation of both. He noted that it was served in person, and that he and Mr. Robbins went out and served the property owner. He noted that following that, on January 28, 2015, he sent another set of letters to all five of the property owners included in the subdivision plan providing an overview of the stormwater management controls that were included as part of the development process. He noted that he included a packet of information that had various snippets of the plan itself, trying to keep concise with the information that was necessary. He explained that he provided it as assistance for the lot owners to more fully understand how their lots were develop in regards to stormwater management.

Mr. Wolfe requested Mr. Miller to describe the actual violation as you saw it in the field. Mr. Miller answered that on the original plan for the development, as part of the stormwater management portion, there is a Best Management Practice (BMP) and across the rear of all of the lots this BMP was called out and it says” brushy area to remain”. He noted that the brushy area shown on the plan had some clearing activities occur, it looked as though some trees had been removed, some underbrush has been removed to clear some of the perceived brush out of the way and make it a more attractive situation. He noted that his interpretation of the plan was brushy area to remain is brush area to remain, so he issued a “Stop Work Order”.

Mr. Wolfe questioned if the Board had any additional questions for Mr. Miller, now would be a time to ask them. He noted if not, he would like to have Mr. Fleming explain provisions of the ordinance that are affected in regard to the Patton Road plan.

Mr. Seeds questioned what brought this to Mr. Miller's attention. Mr. Miller answered that he received a call from the adjoining property owner.

Mr. Stine questioned Mr. Laskowski if he had any questions. Mr. Laskowski answered that he had several.

Mr. Laskowski questioned the property owner that Mr. Miller received a call from, was it one of the five owners who you has sent the information to in January. Mr. Miller answered no. Mr. Laskowski noted that it was outside of that area.

Mr. Laskowski noted that Mr. Miller mentioned that the brushy area to remain as noted on the plan, which exhibit you are referring to. Mr. Miller answered that it was Exhibit 5 which was the plan sheets. Mr. Laskowski questioned which page. Mr. Miller answered sheet eight.

Mr. Laskowski questioned what the distance of the brushy area that is not to be disturbed is. Mr. Miller answered that it is not delineated on the plan as it is to scale and he does not have a scale with him.

Mr. Laskowski questioned what act did Mr. Miller take when you were on the site to determine the distance at which the brush area that was noted on Exhibit 8 on the plan. Mr. Miller answered that area had been cleared up to and in the vicinity of what appeared to be the property line, so it was within the colored green brush area that was to remain.

Mr. Laskowski questioned how you determined where the property lines were. Mr. Miller answered that there were survey markers out there and an old fence row that runs along the rear of the development, the remains of it.

Mr. Laskowski questioned if Mr. Miller observed or saw any of the actual activities take place by Mr. Fraraccio or on his behalf. Mr. Miller answered not that day, no.

Mr. Laskowski questioned if Mr. Miller observed them on another day. Mr. Miller answered no.

Mr. Laskowski questioned if Mr. Miller walked in and accessed the area. Mr. Miller answered yes. Mr. Laskowski questioned meaning the rear where the tree line, the fence row, etc. Mr. Miller answered yes. Mr. Laskowski questioned what the condition of the property was that day. Mr. Miller questioned which part of the property. Mr. Laskowski answered for this particular lot, what was the condition of the area along the tree line. Mr. Miller questioned for which particular lot. Mr. Laskowski answered Mr. Fraraccio's lot, he noted that all of his questions are only related to his lot. Mr. Laskowski questioned if Mr. Miller's testimony was only related to what you observed on Mr. Fraraccio's lot. Mr. Miller answered that was correct.

Mr. Laskowski questioned what Mr. Miller observed when he walked within the tree line to the rear of the property. Mr. Miller answered that it looked like some form of small machinery had been used to grub, and some clearing activities had been completed. He noted that you could tell that some things had been pulled out of the ground, removed, and that a piece of equipment had been operating in there.

Mr. Laskowski questioned Mr. Miller if he had any discussions with Mr. Fraraccio that day. Mr. Miller answered on January 5<sup>th</sup>, when he served the stop order, yes. Mr. Laskowski questioned what the discussion was. Mr. Miller answered that he does not remember it verbatim, but he and Mr. Robbins knocked on the door, discussed the stop work order, provided him a copy of that, and we probably explained the general nature of the violation and that it was part of a stormwater management portion to a plan.

Mr. Laskowski questioned Mr. Miller what his position is with the Township. Mr. Miller answered that he is an engineering field technician. Mr. Laskowski questioned Mr. Miller if he is

a licensed engineer. Mr. Miller answered no. Mr. Laskowski questioned if he is licensed for what he does. Mr. Miller answered that there is no license for what he does.

Mr. Laskowski questioned if Mr. Miller had reviewed any of the recorded documents in regard to the stormwater management plan, by recorded he mean with the County. Mr. Miler answered yes, he looked at them online; he did not go to the courthouse. Mr. Laskowski questioned if page eight was part of the recorded documents. Mr. Miller answered that it was not.

Mr. Laskowski questioned if Mr. Miller reviewed the deeds that were on record with regard to the transfer of the properties. Mr. Miller answered he did. Mr. Laskowski questioned if the deeds made any reference to the stormwater management plan ordinance or plans. Mr. Miller answered that he did not believe that they did.

Mr. Laskowski questioned if they made any reference to any stormwater operations and maintenance agreement. Mr. Miller answered that he did not believe. Mr. Laskowski questioned if Mr. Miller provided Mr. Fraraccio a copy of the stormwater operations and maintenance agreement on the day that you met with him on January 5<sup>th</sup> to serve the stop work order. Mr. Miller answered he did not.

Mr. Laskowski questioned if Mr. Miller provided to Mr. Fraraccio any subsequent information. Mr. Miller answered that the residents were provided the post-construction stormwater management plan operations and maintenance schedule which was part of the recorded plan as well as excerpts of the stormwater management narrative.

Mr. Laskowski noted that Mr. Miller is referring to Township Exhibit #2, the items that you provided to Mr. Fraraccio. Mr. Miller answered yes. Mr. Laskowski noted that the post-construction stormwater management plan does reference excerpts from that and is included in

the letter sent, it is also copied from the plan as recorded as part of Township Exhibit #5 on the first page of three along with the general notes, is that correct? Mr. Miller answered yes.

Mr. Laskowski questioned where it references brushy area in the notes on the BSCM that you provided to Mr. Fraraccio. Mr. Miller answered that he did not believe that is specifically had those references because they are a BMP as part of the plan. He would interpret that this would also cover those because they are part of the approved subdivision plan.

Mr. Laskowski questioned if you would acknowledge that there is any reason that page eight of eight which is Township Exhibit 5 was not recorded. Mr. Miller noted that it is not always done by the developer that they will record all of the plan sheets for a particular development. He noted on one of the notes, specifically note 26, no additional grading outside of the limit of disturbance line shown on this plan can occur without Township approval. He noted that as he reviewed this there were situations within the notes and also on the cover sheet that tied the entire plan set together as it was approved by the Township, whether all the sheets were recorded or not.

Mr. Laskowski questioned whose responsibility is it, to your knowledge, to record the plan for stormwater management. Mr. Miller answered which part of the plan he was referring to. Mr. Laskowski answered the plan that is required to be recorded in accordance with the requirements of the stormwater management ordinance, Township Exhibit #3. He questioned whose responsibility is it to record the stormwater management plan in accordance with the ordinance. Mr. Miller answered that he believes it is the developer.

Mr. Laskowski questioned if it is not the obligation of the Township to receive, strike that, notification of confirmation of that recording to your knowledge. Mr. Steve Fleming requested Mr. Laskowski to clarify if he was referencing the report or the plan. Mr. Laskowski

answered that he was referencing the plan. Mr. Miller requested Mr. Laskowski to repeat his question. Mr. Laskowski requested the court stenographer to repeat the question. She noted that Mr. Laskowski questioned if it is not the obligation of the Township to receive notification and confirmation that the plan was recorded. Mr. Miller answered that he does not know what confirmation the Township's receives when a plan is recorded as it is the Community Development Department responsibility and he works in Public Works.

Mr. Laskowski questioned if the operations and maintenance agreement is to be recorded. Mr. Miller answered yes. Mr. Laskowski questioned whose responsibility it is to do that. Mr. Miller answered that he believes it is the developers.

Mr. Laskowski questioned if Mr. Miller had any knowledge or information to indicate that the operations and maintenance agreement was recorded. Mr. Miller answered that he did not. Mr. Laskowski questioned if he had any knowledge or information to indicate that the operations and maintenance agreement at any time was provided to Mr. Fraraccio. Mr. Miller answered that he did not.

Mr. Laskowski questioned if Mr. Miller had any knowledge or information that at any times that page eight was provided to Mr. Fraraccio regarding his property. Mr. Miller answered that it was provided to him in the packet of information that he gave him. Mr. Laskowski questioned, but not prior to that time. Mr. Miller answered that he does not know what they were provided as part of their sales documents.

Mr. Laskowski noted that he had no further questions.

Mr. Stine questioned if the Board members had any questions. Seeing no response he requested the Township to continue.

Mr. Wolfe noted, at this point in time Mr. Steve Fleming, Township Engineer will detail the Township stormwater management regulations in the ordinance as they pertain to this subdivision land development plan.

Mr. Steve Fleming, HRG, noted in the interest of time, he would summarize the ordinance requirements for a project like this. He noted that it was a relatively small five-block subdivision of the original parent tract of which was proposed the construction of five single-family homes and associated driveways and patio areas. He noted that they incorporated what the ordinance refers to as low-impact development practices in which they apply incremental stormwater BMP's throughout the project in lieu of one large detention basin. He noted that it is a practice encouraged by the Department of Environmental Protection (DEP) and implemented by the Township ordinance.

Mr. Fleming noted in order to facilitate the low-impact development practice they also reserved part of the site not to be disturbed and that part of the site was the brushy area to remain as previously referenced. He noted that other low-impact BMP's were pervious driveways, underground infiltration facilities under the driveway and front yards, pervious patio material, above ground rain garden areas, and also the connection roof leaders to some of the underground detention areas. He noted through the subdivision and land development process, he reviewed that plan in accordance with the Township ordinance, as it was prepared by R.J. Fisher, the stormwater management narrative that includes the calculations previously provided to the Board this evening also were prepared by R. J. Fisher Engineering and sealed by Robert J. Fisher. He noted that it was found to comply with Township Ordinances, the project was approved and subsequently recorded.

Mr. Laskowski questioned Mr. Fleming what is his title and position with the Township. Mr. Fleming answered that he is the senior project manager with Herbert Rowland and Grubic and is the Township Engineer.

Mr. Laskowski questioned when you say the project was approved and recorded, what was recorded. Mr. Fleming answered that plan sheets, the Recorder of Deeds required the cover plan sheet, the subdivision plan and that is it. Mr. Laskowski questioned if Mr. Fleming agreed with Mr. Miller's testimony that only the first two pages, pages one and four were recorded at the Recorder of Deeds office. Mr. Fleming answered that page three of the subdivision plan would have been recorded.

Mr. Laskowski questioned if Mr. Fleming recorded the plan. Mr. Fleming answered no.

Mr. Laskowski questioned if Mr. Fleming was surprised to find out that page eight of the plan was not recorded. Mr. Fleming answered no. Mr. Laskowski questioned why he was not surprised. Mr. Fleming noted that it is not pertinent to the subdivision of the land which the Recorder of Deeds is typically charged with overseeing.

Mr. Laskowski noted that the Recorder of Deeds office is charged with recording documents that are generated by parties for improvements in municipalities, is it not. Mr. Fleming answered that is correct. Mr. Laskowski noted that they do not make any determinations with regard to stormwater management plans or operations and maintenance agreements as to whether or not these are to be recorded, is that right. Mr. Fleming answered that they do not require the documents nor do they require its recording as a function of the plan. Mr. Laskowski noted that it is not true then that the Recorder of Deeds office makes the determination as to what is or what is not recorded with regard to the development that took place here in regards to Mr. Fraraccio's lot. Mr. Fleming answered that he verified that the practice within Dauphin County

has not, in the past, been to record the entire plan set for the subdivision or land development project. Mr. Laskowski noted that would be the Township's policy and position but not the Recorder of Deeds, correct. Mr. Fleming answered correct, but also it is consistent with other municipalities within Dauphin County.

Mr. Laskowski questioned if Mr. Fleming verified the recording of the plans. Mr. Fleming answered that he has a copy of the recorded plan in front of him, so yes.

Mr. Laskowski questioned if Mr. Fleming verified the recording of the stormwater management and operations agreement. Mr. Fleming answered no. Mr. Laskowski questioned if it is not required to be recorded pursuant to the Stormwater Management Ordinance. Mr. Fleming answered that the intent with the ordinance was for it to be required and he does believe they are being recorded currently, after the adoption of the ordinance by the Township and other Townships, there was a period of time where the recorder was not accepting them due to the signature page.

Mr. Laskowski noted with regard to the SMO does not section 170.12.03 require that recording. Mr. Fleming answered that it requires the owner to record the O & M agreement within 30 days of approval of the stormwater site plan by the Township. Mr. Laskowski questioned if they are to produce a recorded receipt to the Township, is that correct. Mr. Fleming answered yes.

Mr. Laskowski questioned if he could verify that there was a recorded receipt for the site plan that was required in this instance that was delivered. Mr. Fleming answered that did not confirm that. Mr. Laskowski noted that section 170.12.03.a2 does require that the O&M agreement as appended should be recorded as set forth on Appendix A, is that correct. Mr. Fleming answered yes.

Mr. Laskowski questioned if the O&M agreement was executed properly. Mr. Fleming answered that he was not sure. Mr. Laskowski noted that it was not recorded then, would you agree with that. Mr. Fleming answered that he does not have sufficient information to answer that question.

Mr. Laskowski questioned if Mr. Fleming had any communications directly with Mr. Fraraccio. Mr. Fleming answered that he did not.

Mr. Laskowski questioned if Mr. Fleming observed any of the conditions on the property with respect to, or observe and inspect the condition on the property in regards to the issuance of the January 5th stop work order notice of violation. Mr. Fleming answered that he did preform a site visit of the project with respect to the bonding improvements. Mr. Laskowski questioned when that occurred. Mr. Fleming answered, after the stop work order, but he did not have the exact date.

Mr. Laskowski questioned if Mr. Fleming entered Mr. Fraraccio's property to do that inspection. Mr. Fleming answered that he did not have to. Mr. Laskowski questioned where or how was the inspection conducted. Mr. Fleming answered that it was a sidewalk inspection to determine the current status update of the amount of impervious.

Mr. Laskowski questioned if Mr. Fleming reviewed or approved any proposed stop work orders for SWO violations before they are issued. Mr. Fleming answered no. Mr. Laskowski questioned if anyone approves those, other than Mr. Miller, the technician in this instance. Mr. Fleming answered that he is not the appropriate person to answer the question.

Mr. Laskowski noted that he had no further questions.

Mr. Stine questioned if the Board members had any questions for Mr. Fleming.

Mr. Stine questioned in looking at the ordinance that is marked as Township Exhibit 3, there were three dates on it, three different ordinances that make up the ordinance. Mr. Fleming answered yes.

Mr. Stine noted that the plan was approved in 2012. Mr. Fleming answered yes.

Mr. Stine noted that Ordinance 13-04 was not in affect at that time. Mr. Fleming answered that it would have been Ordinance 11-06. Mr. Fleming questioned which of the sections in Township Exhibit 3, if any, were amended by Ordinance 13-04. Mr. Fleming answered that O&M agreements specifically was amended to address the Recorder of Deeds concerning the signature page.

Mr. Stine questioned if it would be 170-12.03 or is it the agreement itself. Mr. Fleming answered that it is the agreement itself.

Mr. Stine questioned if 170-12.03 was in fact in Ordinance 11-06. Mr. Fleming answered that he did not recall that.

Mr. Wolfe noted that he has presented that the stop work order was issued in conjunction with the work being performed on Mr. Fraraccio's property and he has no further information to present.

Mr. Laskowski requested Mr. Fraraccio to state his full name. Mr. Joseph Michael Fraraccio. Mr. Laskowski questioned if he was the owner of the property at 2517 Patton Road. Mr. Fraraccio answered yes. Mr. Laskowski questioned how long he has owned the property. Mr. Fraraccio answered since October 2013.

Mr. Laskowski questioned if he could provide a brief synopsis of his background experience and professional education. Mr. Fraraccio answered that he is currently licensed and certified in the states of New Jersey and New York. Mr. Laskowski questioned what he is

certified to do. Mr. Fraraccio answered design. Mr. Seeds requested Mr. Fraraccio to speak into the microphone. Mr. Fraraccio noted that his name is Joseph Michael Fraraccio and he and his wife purchased the home at 2517 Patton Road in October of 2013. He noted that his firm is licensed and certified in the states of New Jersey and New York but he is not certified and licensed in the state of Pennsylvania. He noted that the firm is basically a design build firm and his education runs in architecture and his professional expertise is more in building. He noted that he has been building the firm since 1973 and he has been in the building industry since he was ten years old, working part time for his father. He noted that he served as vice-chairman and secretary of the Lyndhurst Planning Board for ten years. He explained that Senator Anthony Scardino and he were instrumental in establishing the guide lines, rules and regulations for Hackensack/Meadowlands Development Commission, responsible for all new development in the Meadowlands area, separating between New York and New Jersey.

Mr. Laskowski questioned if you are licensed architect. Mr. Fraraccio answered yes. Mr. Laskowski noted not in Pennsylvania. Mr. Fraraccio answered no sir.

Mr. Laskowski questioned where Mr. Fraraccio is licensed. Mr. Fraraccio answered the State of New Jersey and New York.

Mr. Laskowski questioned Mr. Fraraccio if he had any other certifications regarding land use. Mr. Fraraccio answered that he has certifications in municipal land use laws, BOCA and various other certifications in project management, construction management, etc.

Mr. Laskowski questioned Mr. Fraraccio when he purchased his property, you and your wife, who did you purchase it from. Mr. Fraraccio answered the real estate broker was RSR. Mr. Laskowski questioned who the individual was that actually sold you the property. Mr. Fraraccio answered that it was Classic Communities.

Mr. Laskowski questioned if Mr. Fraraccio knew where they acquired the property from that they sold to you. Mr. Fraraccio answered from Triple Crown.

Mr. Laskowski noted that he would make this document Appellant No. 1, noting that he does not have an extra copy and asked that the Board take judicial notice of this which is a deed dated October 3, 2013 between Classic Communities and Mr. and Mrs. Fraraccio recorded on October 22, 2013 Court of Deeds Office, Dauphin County, Pennsylvania, Instrument Number 20130032876. Mr. Stine questioned if that is the information on the deed. Mr. Laskowski answered yes, noting that the deed does have the recorded information on it.

Mr. Laskowski questioned Mr. Fraraccio if that is the deed that you acquired. Mr. Fraraccio answered yes.

Mr. Laskowski questioned if there is any indication on the deed of any stormwater management practices. Mr. Fraraccio answered no. Mr. Laskowski questioned if there is anything for the BMP's being required. Mr. Fraraccio answered no. Mr. Laskowski questioned if there is any indication of any operation maintenance agreement being referenced in that deed. Mr. Fraraccio answered no.

Mr. Laskowski noted that Appellants' Exhibit 2, asking the Board to take judicial notice that this is a recorded deed on December 17, 2012 Court of Deeds Office, Dauphin County No. 2012037193 dated December 12, 2012 for Triple Crown Corporation. He noted that it also has the certification page as well as appellants exhibit No. 1. He noted that it is the same property, part of that deed, and for identification purposes, it is the property of Mr. Fraraccio.

Mr. Laskowski questioned if Mr. Fraraccio had an opportunity to review the deed. Mr. Fraraccio answered yes. Mr. Laskowski questioned if it was provided to him at the time of sale. Mr. Fraraccio answered that it was not.

Mr. Laskowski noted that subsequently, Mr. Fraraccio you looked at it. Mr. Fraraccio answered yes. Mr. Laskowski noted that based on that, you did not find any references to stormwater management practices, BMP's or Operation and Maintenance, correct. Mr. Fraraccio answered none.

Mr. Laskowski noted at the time you brought your property, did you get any information, any notice from Triple Crown or Classic Communities that there were stormwater best management practices regarding the brushy area to the rear of your property. Mr. Fraraccio answered there was none.

Mr. Laskowski questioned if Mr. Fraraccio was aware of the plan set being recorded, pages one and four of the Township's Exhibit 5. Mr. Fraraccio answered that he did not receive these until later on.

Mr. Laskowski questioned Mr. Fraraccio if he would describe the brushy area to the rear of your property. Mr. Fraraccio answered that it is approximately 90 point something feet wide by 150 something feet long.

Mr. Laskowski questioned what the condition of that area is. Mr. Fraraccio answered that it is a dumping ground.

Mr. Laskowski questioned why you say that. Mr. Fraraccio answered that the majority of the trees are, walnut trees are all rotten and diseased. He noted that there was brush that he defined as weeds that were five to six feet tall. He noted that the neighbor in the back has dumped his grass clippings, his tree branches, his dead bushes, and trees limbs on his property and his next door neighbor's property that abuts him. He noted that it was discovered when the weeds were cut, that there was also construction material on that portion of the property,

meaning that there was some plywood that they used for the sheathing of the houses, some 2 by 4's, etc. etc.

Mr. Laskowski questioned if that was not something that Mr. Fraraccio put there. Mr. Fraraccio answered no, it was not. Mr. Laskowski questioned if Mr. Fraraccio did any dumping in the rear of your yard. Mr. Fraraccio answered no, he did not.

Mr. Laskowski noted that you say the trees back there are rotten and diseased, first of all, there are a number of trees back there... Mr. Fraraccio answered yes sir.

Mr. Laskowski questioned if the majority of them are walnut. Mr. Fraraccio answered yes sir. Mr. Laskowski questioned how many of them would... you estimate the age of the trees. Mr. Fraraccio answered sixty to 100 years old. Mr. Laskowski questioned why you would say that. Mr. Fraraccio answered since many are listing, they are diseased, the bark is falling off of them, and it was described to me by a number of landscapers and horticulturists that they are diseased and... Mr. Laskowski questioned when you say listing, you mean... Mr. Fraraccio answered about to fall down completely.

Mr. Laskowski noted that the brushy area extends not only in your backyard but to the adjoining property owners, correct. Mr. Fraraccio answered that is correct, Mr. Laskowski questioned if he was seeing any trees coming down in this area. Mr. Fraraccio answered that there is a tree on the neighbor's, two doors from him that is down and a lot of branches that have fallen.

Mr. Laskowski questioned why this is a concern. Mr. Fraraccio answered safety, there are children on the left, they have three, the last was born in September. He noted that there are two children on the right, a five-year old and a two-year old. He noted that he has no problem with them using his yard to run back and forth to play baseball, etc. He noted, on a day like today,

those trees are swaying to and fro, and it is just a matter of time before one snaps and God forbid, falls on one of the children.

Mr. Laskowski questioned what Mr. Fraraccio's intention is with regard to the area back here. Mr. Fraraccio answered that he wanted to remove the diseased and weakened trees because they have termites and carpenter ants, etc. etc. and he is having a difficult time with the mortgage company because of the termites.

Mr. Laskowski questioned why Mr. Fraraccio was having a difficult time. Mr. Fraraccio answered that they wanted a termite inspection certification inspection that he could not provide due to the wooded area. He noted that there was a stake on the left side of his house, 13 feet away, that was removed by the Classic Communities subcontractor and when he picked it up it was riddled with termites. He noted that he showed the stake to the Board at the February 3, 2015 meeting.

Mr. Laskowski noted that due to the deep freeze that we have all experienced, you have not seen any termites. Mr. Fraraccio answered no as those insects are deep in the soil.

Mr. Laskowski questioned what Mr. Fraraccio's concern is now that the winter is hopefully over. Mr. Fraraccio answered when the ground thaws, they will most likely be in his house.

Mr. Laskowski questioned if the brushy area to the rear with the diseased and rotted trees are contributing to this condition. Mr. Fraraccio answered yes sir.

Mr. Laskowski noted that Mr. Fraraccio indicated that there was no agreements, stormwater management best management practices described to Mr. Fraraccio. He noted that no one ever described a line of demarcation or delineation of this brushy area as noted on Township

Exhibit 5. Mr. Fraraccio answered, no, nobody, not the real estate broker, not Classic Communities, or the Vice President that he met with personally, nobody.

Mr. Laskowski questioned Mr. Fraraccio if he cleans out the area or is allowed to clean out the area, how you would go about doing that. Mr. Fraraccio answered that he would have all the trees that are diseased that he can identify as such be removed, no trees have been cut down. He noted, where we stated previously, there are tree trunks there, they were most likely done by Classic Communities subcontractor. He noted that the only thing that was cleaned up was the weeds that were four to six feet high, that's it.

Mr. Laskowski noted once those trees are removed are you able and willing to do any plantings in that area. Mr. Fraraccio answered yes. Mr. Laskowski questioned of what nature. Mr. Fraraccio noted as he explained previously, he was willing to plant trees that are suitable for that site, the terrain, etc. etc.

Mr. Laskowski questioned what about other vegetation. Mr. Fraraccio answered that he would be more than willing to put some shrubs and grasses as permitted. Mr. Laskowski questioned if that would mean that the trees to be planted in there would be more suitable to the type of terrain and ground... Mr. Fraraccio answered yes.

Mr. Laskowski noted that they would be more conducive to water absorption and dissipation. Mr. Fraraccio answered yes.

Mr. Laskowski questioned if it is necessary for Mr. Fraraccio to have that type of vegetation to the rear of your yard. Mr. Fraraccio answered that he likes vegetation. Mr. Laskowski questioned if the slope to the rear of your yard, does it go up or down. Mr. Fraraccio answered that it comes down his property at a greater pitch than what was indicated on the drawing, it appears that Classic Communities did not follow any drawings whatsoever.

Mr. Laskowski noted that his point is that you need to have some vegetation in that brushy area back there. Mr. Fraraccio answered yes.

Mr. Laskowski questioned if it was Mr. Fraraccio's desire and intention to see that it remains. Mr. Fraraccio answered yes.

Mr. Laskowski questioned if Township Exhibit 6, the Stormwater Management Narrative, was provided to Mr. Fraraccio. Mr. Fraraccio answered no.

Mr. Laskowski noted that he was going to show Mr. Fraraccio what is marked Appellant No. 3, and he would like the Board to take judicial notice that this report, which is from the Court of Deeds Office, Dauphin County, the subdivision plan which conforms to the three pages that we have listed here, however, he does not see that the actual instrument number is recorded on this as it is a digital version. He noted that it is pages one and four and has a recording certificate. He questioned if the Township agrees that it is the same version. Mr. Crissman noted for clarification, is it a duplication of what we have already received as Exhibit No. 5. Mr. Laskowski answered yes except for page 8 of 8. He noted that Township Exhibit No. 5 consists of three pages, the third one of which, page 8 of 8 is not part of that recording as prior testimony already exhibited. Mr. Stine suggested that Mr. Laskowski is trying to say that this is part of the plan that was recorded.

Mr. Laskowski noted for that purpose he has no further questions.

Mr. Stine questioned which of the lots set forth on the plan does the Fraraccio's own. He noted that the plan shows proposed lot numbers and not addresses. Mr. Fraraccio answered that it is proposed Lot #2.

Mr. Stine questioned if Mr. Fraraccio's testimony was that before he bought the property you did not look at the recorded subdivision plan. Mr. Fraraccio answered that he was never

given the recorded subdivision plans. Mr. Stine questioned Mr. Fraraccio if he ever looked at it at the Records of Deeds office. Mr. Fraraccio answered no.

Mr. Wolfe questioned Mr. Fraraccio if he was to understand from his testimony in regard to the proposed maintenance activities as grading is not involved and that it is only the removal of dead trees that is involved and that you plan to replant any tree that is to be removed because you have found it to be dead. Mr. Fraraccio answered yes.

Mr. Wolfe questioned do you have a plan in place to undertake that work. Mr. Fraraccio answered not at this moment, according to his understanding he is not allowed to walk on that land. Mr. Wolfe noted that the stop work order's position by the Township was not to do any work unless it would comply with the Township's SMO. Mr. Fraraccio noted that it was his understanding from Sam Robbins and Mat Miller that he was not to disturb in any shape or form the soil that lays upon that piece of property.

Mr. Wolfe noted that he was a little confused, he believed he repeated what his testimony was in that you weren't undertaking earth moving activity; you were only removing trees, ones that were dead. He noted that we are not doing earth moving activities or are we. Mr. Fraraccio answered that the only thing that was removed was the high grass and weeds and that work was done on Friday and he saw two gentlemen in his backyard, opened up the sliding door and introduced himself and they came over and introduced themselves, Mr. Miller and Mr. Robbins, that Monday morning.

Mr. Wolfe questioned who was doing the work for Mr. Fraraccio. Mr. Fraraccio answered that it was a contractor from Pennsylvania. Mr. Wolfe questioned what the name of the contractor was. Mr. Fraraccio answered he did not know, he has his notes at home in his study. Mr. Wolfe questioned what was he contracted to do. Mr. Fraraccio answered to cut all the weeds

from the back. Mr. Wolfe questioned what type of equipment he was using to do that. Mr. Fraraccio answered that he had a bobcat with a front blade, but no trees were cut down and removed.

Mr. Seeds suggested that it might have been a brush hog. Mr. Fraraccio answered that he did not know the terminology, but it was like a huge box in front of the bobcat and it had a blade that just cut, he noted that we don't have anything like that in Jersey.

Mr. Wolfe questioned Mr. Fraraccio if he had identified the area for the contractor to work. Mr. Fraraccio answered that he told him within the parameters of the stakes that he had done in the beginning of last year.

Mr. Wolfe questioned Mr. Fraraccio if he had prepared a plan in regard to the stop work order that was issued by the Township per your testimony that you provided to use today for what you're trying to do. Mr. Fraraccio answered that he explained to the Board what his intentions were, would you like to repeat them. Mr. Wolfe noted that his question is have you prepared a specific plan in regard to your intentions. Mr. Fraraccio noted as he explained, to remove those trees that are diseased and if permitted to do so to plant new trees and vegetation.

Mr. Wolfe questioned if the diseased and rotten trees have been identified yet. Mr. Fraraccio answered that they have not since he was told not to do anything, and he has not.

Ms. Lindsey noted when Mr. Fraraccio was before the Board during Public Comment you indicated that you wanted to put a shed and a vegetable garden. Mr. Fraraccio answered a vegetable garden yes, but not a shed. She questioned if it was to be in the area that you were going to tear down the trees. Mr. Fraraccio answered that he wanted to plant it to the rear of the property, my wife likes to grow vegetables.

Ms. Lindsey questioned if the trees along the five properties, are all of these diseased for everyone's property or just Mr. Fraraccio's. Mr. Fraraccio answered that most of them are for all five properties. Ms. Lindsey questioned if the other homeowners wants to take them down. Mr. Fraraccio answered that they do, but they are waiting to see what happens with him.

Mr. Wolfe questioned Mr. Fraraccio if he has had the opportunity to have the Township's Shade Tree Commission (STC) inspect the trees at your property. Mr. Fraraccio answered no he did not. Mr. Wolfe noted that Mr. Fraraccio referenced the fact that you want to replant once you have the ability to remove the trees in question. He questioned if he had a planting plan that would identify the specific species of vegetation to be replanted. Mr. Fraraccio answered, at this moment, before this Board, it is premature.

Mr. Wolfe noted that he had no further questions.

Mr. Laskowski questioned Mr. Fraraccio if he was willing to submit a planting plan with specific details before you would take on any further work. Mr. Fraraccio answered yes.

Mr. Laskowski questioned if it is correct that since you received the stop work order and notice of violation, that Mr. Fraraccio has not done anything else. Mr. Fraraccio answered, nothing whatsoever. Mr. Laskowski questioned if you have gone out on the area. Mr. Fraraccio answered no, not even to walk on the property.

Mr. Laskowski questioned if the removal of the weeds that was in the back, you keep referring to them as weeds, they were truly just overgrown weeds, were they not. Mr. Fraraccio answered yes, they were infested with weeds from four to six feet in height.

Mr. Laskowski questioned if Mr. Fraraccio could access the area. Mr. Fraraccio answered that it was just covered with it, it would attach to your sweatshirt.

Mr. Laskowski questioned Mr. Fraraccio if he would be averse to having the Township's STC review the specific area. Mr. Fraraccio answered no.

Mr. Seeds questioned if Mr. Fraraccio is willing to work with our STC. Mr. Laskowski noted that he did not phrase his question that way but he did ask him whether or not he was willing or amenable to having the STC review his specific plan and details that he would present.

Mr. Wolfe noted that he would like to bring this to a rapid conclusion by referring to Mr. Miller's correspondence of January 28<sup>th</sup>; do you have that in front of you. Mr. Fraraccio answered yes. Mr. Wolfe noted if you look at the last paragraph, the second sentence it says "the controls which are referenced to both, cannot be altered, removed, or made inoperable without written permission of the Township." He noted that it sounds like Mr. Fraraccio has a desire to prepare and present a plan, is that correct. Mr. Fraraccio answered yes.

Mr. Hawk noted that you mentioned page two of that same letter dated January 28<sup>th</sup>. He noted that point number two stated that, "the ground vegetation cannot be planted as grass or turf and by removing the existing vegetation and disturbing the soil, the infiltration rate is reduce". He suggested that Mr. Wolfe's comment is that he needs some kind of a plan as to how you are going to accomplish the vegetable garden without... Mr. Fraraccio answered that if his wife is set on a vegetable garden he will move it closer to the house and out of this area.

Mr. Seeds noted that the information makes it look as if the entire lot is an infiltration area, the way the letter spells it out noting that the front yard has pervious paving and so forth. Mr. Fraraccio noted that the topic of discussion has nothing to do with the front yard, it is the rear yard, but the rear yard now slopes to the house. He explained at the last meeting that his yard is the recipient of 80% of the runoff coming from the three other home sites, all the way going up the hill on the left side facing his house where the berm is. He noted that his home is

the recipient of 80% of the runoff coming off of those three properties. He noted that he has been battling Classic Communities as he explained before, to get them to correct the problem. He noted that he has two sump pumps with backup batteries and with the rain we have had, they are constantly running. He noted with a heavy rain, every 30 seconds those sump pumps are kicking on and the water is still coming in. Mr. Seeds noted that it sounds like a lot of your disagreements may be with whoever sold you the property, you may have another civil matter other than to this Board. Mr. Fraraccio answered that is not the discussion for this.

Mr. Seeds noted, from the information that was given here this evening, he may have other legal matters with other parties other than with this Board in regards to the lack of notification, noting that is something that the Board can't do anything about.

Mr. Laskowski noted that we are not asking for that under this circumstances, it is a very specific proceeding. He noted that there is a notice of violation that has been issued, claiming that there has been a violation of the SMO and the other issues concerning who he got it from and whether there is a civil matter is not the scope of today and he is not asking for that relief. He noted that the questions relates to the brush area in the back and the stop work order and notice of violation are part of the agreement that was not enforceable.

Mr. Seeds questioned if Mr. Fraraccio is contesting the information. Mr. Laskowski answered yes, of course he is contesting the information as it relates to the brushy area and the notice of violation under the circumstances. He noted that his client has stated that his intentions are respectful of the scenario, he needs vegetation to the rear of his yard and he has recognized that but his intention is not to eliminate it.

Mr. Seeds questioned what relief he is looking for. Mr. Laskowski answered that the violation notice should be overturned and dismissed under the circumstances so that he is not

under the gun concerning that particular work going forward and the further enforcement of that notice against him as he does not believe there has been a direct violation given the circumstances here. He noted that he is concluding his argument at this point. Mr. Crissman requested Mr. Laskowski not to do that to him.

Mr. Laskowski noted that he is looking for, if he reads the SMO correctly, and even the notice that was given out January 28<sup>th</sup>, that there is the ability for the Township and the Board to provide exceptions to that ordinances under the circumstances. He noted with regard to that violation notice, this is a circumstance that warrants that exception because of the diseased trees and location and nature of the lots back there and his clients desire to keep some vegetation there that might be more effective than what is reported to be natural now, which is clearly not.

Mr. Crissman noted that the third issue is you are contesting the stop work order based on your position that the Township itself is in fact misinterpreted the ordinance. He noted that it is the bottom line issue. Mr. Laskowski answered no, not necessarily misinterpreted the ordinance but misapplied the ordinance under this circumstance as the terms and conditions of the ordinance have not been followed. He noted that there is no operation and maintenance, and it clearly reburies it under this circumstance, and it was not done. He noted for the purposes of the violation notice and the enforcement of it, his client was not and did not have the proper notice that he was entitled to by law under your ordinance that should have been reported, he noted that it is pretty clear from the testimony today. He noted that it is supposed to be in the deeds, the O&M is supposed to be on record, and if those things were done, and if the public records as they should have been were recorded, he did not believe that we would be here today because Mr. Fraraccio would not have begun to clear the weeds back there. He noted if you look at the exhibit, noting that page eight of eight pages, it is critical here, and it was not included. He noted

that plan page clearly identifies the brushy area, not the other two pages. He noted that he was on no notice here so certainly his intention was not to violate the ordinance and your notices and he clearly stopped when he was told there was a problem. He noted that going forward Mr. Fraraccio desires to be a good resident and a good neighbor and he has knowledge and experience of these situations and what needs to be accomplished down the road and he wants to work within the confines of the ordinance going forward. He noted that he does not want to do this in the face of violation that was improperly issued against him.

Mr. Stine noted in order to resolve this are you are saying that it is his clients desire to come up with a plan to essentially go in and remove some of the undesirable vegetation and then replace it with other vegetation, is that what he is to understand. Mr. Fraraccio answered vegetation and trees, yes sir.

Mr. Stine noted since the Township's letter offered that on the 28<sup>th</sup> of January that maybe you should come up with a plan. Mr. Fraraccio noted when he was here twice, he wanted to appeal and rescind the stop work order so he could proceed, and at both times no decision was made. Mr. Stine explained that doing a plan does not disturb the vegetation that is there. He noted that the Township would need a plan, showing what Mr. Fraraccio intends to do, to give it to them for approval and once you have the approved plan, you can go and take the dead trees out, remove other vegetation that you desire to and replace it with other things. He noted that the Township needs to know what that is. Mr. Fraraccio answered that he understands.

Mr. Hornung noted that much of this is predicated on what seems to be from Mr. Fraraccio's point of view is the amount of dead trees and termite infested area and he questioned if he had any horticulturist background to have the knowledge for what trees are not in good shape or diseased. Mr. Fraraccio noted that he has consultants of his that are licensed and capable

to do so. Mr. Hornung questioned if they came out to identify what trees are not diseased... Mr. Fraraccio answered that he had landscapers from Pennsylvania that initially went through the site. Mr. Hornung noted that he knows a lot of landscapers and they have very little education in that area. Mr. Fraraccio answered that he understands that. Mr. Hornung noted that a landscaper is not a qualified individual who is required to have that kind of knowledge so what is needed is for you to provide a statement from a someone with horticultural education or knowledge, that they have the knowledge and expertise to identify if a tree is diseased or not. Mr. Fraraccio answered that he had a horticulturist from New Jersey who is a friend of an associate of his who came out and went through the site quickly and identified a number of trees that were diseased and rotten. He noted if the Board is asking for a certification, he would be more than happy to comply.

Mr. Hornung noted that he would appreciate that.

Mr. Fraraccio noted that Mr. Hawk mentioned the STC and if they are approved as a division to make the decision he would be more than happy to use them predicated on their decisions. He noted if you required backup he would get that also.

Mr. Hornung noted that the STC has a very experienced horticulturist as they have been doing this for many years and they certainly would be trustworthy in that area to identify the dead trees.

Mr. Hawk suggested that Mr. Fraraccio is a very honorable man who is trying to do the right thing but we cannot automatically lift the stop order, it would allow an open door to proceed as you choose. He noted that Mr. Wolf's comment that a plan combined with what Mr. Hornung said to document some of the aspects in regards to termites and ants, but you will need a plan to show what you are doing, and then the Board would be a lot more comfortable in lifting

the stop work order. He noted in good conscience, he cannot vote to lift the stop order, as it is putting the cart before the horse. Mr. Fraraccio answered that he understands the statement Mr. Hawk, but he can't get anyone back there because of all the mud and the water that is back there now so the Board would have to grant him some time to get people back there. He noted, in the interim he has lost all but three months of time, but once the weather breaks it will be impossible to get that subcontractor back until the end of this year. He noted that they are all booked as the season has already opened up and this is what he was told by the people in Pennsylvania. He noted in another week or two after the ground will thaw out. He noted that he is not on any list yet because they want a letter stating that they can step back there to do what they have to do.

Mr. Hornung noted that he knows a lot of landscapers and they are not booked out to the end of the year so if Mr. Fraraccio needs one, let him know. Mr. Fraraccio answered that he will be in touch.

Ms. Lindsey questioned if you take care of this and your neighbors don't, since you said that they are going to wait and see, you will still have the termite problem, if you are saying that all the trees have termites. Mr. Crissman noted that we don't know that as we do not have a termite report.

Mr. Laskowski noted that we are not dealing with other lots and it has not been his clients' testimony that the trees beyond there are diseased. He noted that Mr. Fraraccio is dealing with only those on his land. Mr. Crissman noted that it is the Board's position that we do not have any documentation. Mr. Laskowski answered for the other lots. Mr. Hornung noted for Mr. Fraraccio's lot. Mr. Laskowski answered that there is no contrary evidence. Mr. Crissman answered that there is no documentation.

Mr. Stine questioned if there is anything further to add.

Mr. Stine questioned in regards to the SWO what does Ordinance 11-06 actually says with regard for the recording of plans. Mr. Fleming answered that he did not have the old ordinance with him. Mr. Stine suggested that it is important that we have that information. Mr. Fleming noted that he would provide that to him.

Mr. Crissman explained that he wanted to know what was in this document would be related to Ordinance 11-06.

Mr. Seeds questioned Mr. Fleming what would have been recorded, the land development plan. He questioned if the Stormwater Plan was recorded in the Court House. Mr. Fleming questioned what was recorded for this project. Mr. Seeds answered yes. Mr. Fleming answered that it was just a couple sheets out of the subdivision plan. Mr. Seeds questioned if the Stormwater Plan was recorded. Mr. Fleming noted that traditionally the Stormwater Plan has not been recorded through the planning process. He noted that it is on file in the Township, noting that that document for storm sewer shows inlets, easements are located, maintenance and owner responsibilities are on file at the Township. He noted until the new stormwater regulations came into play we have 30 or 40 years of planning documents which not every piece is recorded at the Court House.

Mr. Laskowski noted that he would lastly reiterate as he has said earlier that his purpose and intention is specifically in regard to the actual notice of violation with regard to the questioned area, that it was improperly granted, the errors are non-compliance with the SMO which his position renders the stop work order ineffective and unenforceable with regard to this matter going forward. He noted other than that, his client has demonstrated his willingness to work with the Township on this plan regarding his property and issues concerning the brushy area itself. He noted that is the focus.

Mr. Hornung questioned if what Mr. Laskowski is requesting is that we lift the stop work order, but you are also saying that Mr. Fraraccio would not do anymore work in that area until he has prepared a plan for what he are going to do and have that plan approved by the Township. He questioned if that is true. Mr. Fraraccio answered yes.

Mr. Laskowski noted if he may add what may expedite that is a concern but because of the trees and the listing that you see, there could arise an emergency situation that needs to be addressed and certainly would be as a part of the any plan submitted to the Township. He noted that he would not want damage to occur to anyone's property other than Mr. Fraraccio.

Mr. Fraraccio noted that the wellbeing and welfare of his neighbors and their children is important and he expressed that the last two times that he addressed the Board. Mr. Laskowski noted that he is asking the Board to take that into consideration.

Mr. Seeds suggested that the plan did not have to be that elaborate if he is going to work with the STC, and that he would replace what is approved by the STC. He noted if he cooperates with the STC that would be good. Mr. Fraraccio questioned if it would only be the STC but would the Board of Supervisors also need to approve the plan. Mr. Stine noted that the Board would have to approve any changes of the stormwater management plan which is what you would be doing. Mr. Fraraccio noted that it would have to be approved by both the STC and the Board of Supervisors.

Mr. Wolfe noted in the correspondence provided on January 28, 2015, he did provide notice to Mr. Fraraccio that the dead trees may be removed in order to eliminate a hazardous condition and we have no problem with that. He noted that we are looking for a plan, and he suggested that it would not have to come back to the Board of Supervisors.

Mr. Fraraccio noted that due to the stipulation in the wording of the stop work order, he was not going to walk on the property because he doesn't violate laws, professionally or personally.

Mr. Hornung questioned Mr. Fraraccio what made him think that walking on the property would violate the order. Mr. Fraraccio answered that he was told that by Sam Robbins and Matt Miller. Mr. Hornung noted that was about disturbance, but walking on property is not a disturbance. Mr. Fraraccio answered that is how they defined it. He noted that they used the word disturbance, you are not allowed to disturb the land, but there testimony agreed that they used the word disturbance and disturbance by definition, you may not be aware of this, in our little world is going in there with a bobcat and digging land up. He noted that walking on land is not disturbance. Mr. Fraraccio noted if he may clarify that, he was told that there was some dead trees and limbs laying down on the ground and he couldn't bring anything to pick them up so he asked them, how an individual is supposed to do that. He noted that they said, an individual would have to carefully go around the high grass and anything that was laying on the ground to take them by hand in sections and remove it physically, not to disturb... Mr. Hornung noted that you are allowed to walk on the land, correct. He noted that your testimony, you said that they told you that you can walk on the land. Mr. Fraraccio answered that he would feel more comfortable if one of his neighbors called up again with a complaint that he was walking back there and I am now... Mr. Hornung noted that your neighbors can call and complain about anything but whether we will come out and enforce it, you not working on the land, Mr. Fraraccio noted that he had a concern that it was in violation of the stop work order and he is not in the mood to spend a week in jail in Lower Paxton. Mr. Hornung noted that it would not go to that and maybe you don't understand how we work.

Mr. Crissman noted that we have been discussing the plan and the January 28<sup>th</sup> letter, and he questioned Mr. Fraraccio how quickly he could get a plan prepared for consideration here. Mr. Fraraccio answered that he would make some calls tomorrow and see who he can get and assumed within the next 30 days. He noted due to the ground conditions back there, there is a lot of watery mud.

Mr. Hawk noted that the plan does not have to come back to the Board but if you coordinate with the STC and the Public Works Department as long as it does not exasperate any existing conditions.

Mr. Fraraccio questioned once it is approved by the STC it had to be approved by the Board of Supervisors. Mr. Hawk answered no. Mr. Stine noted that Mr. Wolfe stated that staff can approve it.

Mr. Fraraccio noted once the plan is approved, the stop work order will be rescinded. Mr. Stine answered correct.

Mr. Hawk noted that he is trying to eliminate Mr. Fraraccio coming back to a Board meeting and not getting the stop order until then. Mr. Seeds noted that they put the stop order on, they will take it off.

Mr. Crissman noted that is why he was asking how quickly he could put a plan together and it appears that it can be put together in short order, therefore based on that information it would help him to make a decision in regards to the request that is before us tonight. Mr. Fraraccio noted that he would get on the phone first thing tomorrow morning.

Ms. Lindsey noted that she would also like to have Mr. Laccase from the STC go out and let the Board know what trees are diseased so we know before making a decision. Mr. Fraraccio requested if the STC could call him prior to coming out so he doesn't have all these unknown

individuals walking on his property, when his wife is home, it is a concern. Ms. Lindsey requested Mr. Wolfe to take care of this. Mr. Wolfe answered yes.

Mr. Hawk noted that the Board does not have to see Mr. Fraraccio again.

Mr. Stine noted that we will continue the hearing as he would like to see Ordinance 11-06 and to have it as part of the record since it was the operative ordinance for this plan. He questioned Mr. Laskowski if it sounds to him that this will be resolved as opposed to making the Board come up with a decision; how do you want to proceed. Mr. Laskowski answered that there is an opportunity for that at this point, and he would wish to continue the hearing pending some of this additional information that may answer a number of questions. He noted that there is a time limit here, an appeal period that had to be adhered to in order for Mr. Fraraccio to preserve his rights. He noted that going forward on this, he understands what we are facing here. He noted if we continue under this understanding and find that the information is significant so be it. He noted that there is a good likelihood that this would be ultimately resolved.

Mr. Stine questioned as far as the length of time for the continuance is 60 days okay. Mr. Wolfe noted on the Township's part it would be more than enough. Mr. Fraraccio answered that he would hope so. He noted that he would make inquiries tomorrow, first thing, with getting a plan. Mr. Stine noted that before you start the process you should involve the Township so whoever is doing your plan understands what is required and it will probably cut down on the amount of back and forth for amending the plan before it gets approved. Mr. Fraraccio noted that he would wait for the STC to give him a call and he would be more than happy to meet with them.

Mr. Stine noted that we will continue the hearing for 60 days to receive more information and at that time we will see where we are in the process. Mr. Fraraccio thanked the Board for their help.

The public hearing ended at 7:35 p.m.

Respectfully submitted,

Maureen Heberle  
Recording Secretary

Approved by,

William L. Hornung  
Township Secretary