

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, September 25, 2006
7:30PM

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairman John B. McIlhinney at 7:35PM and opened with the Pledge of Allegiance.

Also present were: Richard J. Manfredi, Vice-Chairman
Barbara A. Salvatore, Supervisor
Kenneth B. Bennington, Township Manager
Christopher Engelhart, Chief of Police
Francis X. Grabowski, Township Solicitor
C. Robert Wynn, Township Engineer

Chairman McIlhinney announced that the Board met in Executive Session to discuss personnel and real estate matters. Supervisor Manfredi noted that he did not attend the 6:30PM Request For Proposal opening.

A. ANNOUNCEMENTS:

1. Applications for vacancies for various boards and commissions for the year 2007, in addition to a vacancy on the Planning Commission to complete the remaining term of a member who has resigned, will be accepted until Friday, September 29, 2006.

2. On Saturday, September 23rd, Deep Run Valley Sports Association, in conjunction with "Bucks Votes" held an educational demonstration of the new voting machines, during Deep Run's "picture day." On October 18, 2006 from 11:00AM to 2:00PM, "Bucks Votes" will hold an additional demonstration here at the Municipal Building.

B. PUBLIC COMMENT ON AGENDA ITEMS ONLY:

1. Mr. Henry Rosenberger of Blooming Glen requested an open discussion concerning the request to serve White Chimney Farms with public sewer. He noted that in August of last year, the applicant was before the Board with an offer to consolidate the White Chimney Farms and Cinnabar Farms proposal, which would have kept a spectacular view free of sprawl. The consolidation would also avert honeycombing in the Minsi Trail region, which is primarily rural at this time. Mr. Rosenberger asked what actions were taken by each individual Supervisor to facilitate the applicant's request, and also asked the status of the Non-Contiguous Open Space Ordinance drafted by the Planning Commission. He encouraged the Board to reconsider the applicant's request for non-contiguous open space.

C. CONFIRMED APPOINTMENTS:

1. White Chimney Farms Public Sewer Request - Mr. Chris Canavan of W.B. Homes was in attendance to once again request extension of public sewer to serve the White Chimney Farms site.

Supervisor Manfredi stated that the Board of Supervisors received the final draft of the proposed Non-Contiguous Open Space Ordinance from the Planning Commission in May of 2006, which was then forwarded to the Township Solicitor, who provided a rather lengthy review dated July 14, 2006. Supervisor Manfredi reminded those in attendance that the White Chimney Farms plan received conditional final plan approval more than one year ago, with the dwellings to be served by on-lot systems, and noted that the request to consider consolidating both White Chimney Farms and Cinnabar Farms was made after the fact. Supervisor Manfredi referred to the various meeting minutes that show the actions of each Board member with respect to the non-contiguous open space issue. Supervisor Salvadore read from the minutes of the March 27, 2006 Supervisor's meeting, which outlines the motion by the Supervisors to direct the Planning Commission and the Open Space Committee draft a Non-Contiguous Open Space Ordinance for consideration. Supervisor Salvadore confirmed that the Board did receive a lengthy review from Solicitor Grabowski on July 14, 2006, asking for further direction, with a second reminder from Solicitor Grabowski to the Board on September 12, 2006, once again asking for direction.

Chairman McIlhinney pointed out that the proposal for non-contiguous open space is not in conformance with the Zoning or Subdivision/Land Development Ordinances, and he personally feels it is a Transfer of Development Rights program. He believes that this proposal would disenfranchise or remove protection that is granted to the eventual homeowners of these two development sites, because it would take away their right to open space in and around their properties.

Public Comment:

1. Mr. Henry Rosenberger commented that it is the prospective homebuyer's responsibility to be aware of whether or not the development provides for open space.
2. Mr. Jim Engler of Blue School Road questioned the content of the Township Solicitor's review of the non-contiguous open space proposal. Lengthy discussion took place.

There was no further public comment.

Mr. Canavan continued with his presentation, explaining that there are 21 single-family dwellings (20 new lots with one 3-acre lot containing the existing home and barn) proposed for the site. Nine of the lots were proposed to be served by AB systems, with the remainder of the lots proposed to be served with conventional elevated sandmounds. Due to the marginal soil conditions in this area, Mr. Canavan stated that each lot would be required to execute Operation and Maintenance Agreements. The applicant feels that it would be advantageous to connect to public sewer, which would eliminate the need for Operation and Maintenance Agreements, while addressing the long-term sanitary sewer needs of the development, and would also provide an opportunity to extend the sewer line along Blue School Road to any of the existing dwellings that might be experiencing system failures. The applicant is willing to provide a lateral connection to each of the existing dwellings, and would not pursue recapture for existing homes, though Mr. Canavan advised that the applicant would like to retain the right to recapture construction costs for a development site since there are two properties along that route that might be available for future development.

Motion was made by Supervisor Manfredi to approve the request to serve the White Chimney Farms Subdivision with public sewer, subject to review by the Township Engineer and Solicitor, and with conditions to be outlined after further discussions. For discussion purposes, motion was seconded by Supervisor Salvadore. No vote was taken at this time.

If public sewer is approved to be extended to the site, Supervisor Manfredi would be opposed to any existing single-family property being required to pay construction costs in order to connect. Further, he believes the public sewer line should be extended to Schwenkmill Road in the event of failure of any existing septic systems in that area. Supervisor Manfredi reiterated that no additional density would be achieved as a result of extending public sewer to the site.

Supervisor Manfredi amended his original motion to extend the public sewer line to the White Chimney Farms property on its present route from the terminus point at the end of the development to Schwenkmill Road, and to include the requirement that none of the construction costs for the public sewer line would be borne by any of the existing single family dwelling lots along the sewer line route, excluding any lots that are large enough to facilitate a major subdivision in the future. The motion as amended was seconded by Supervisor Salvadore.

Mr. Jim Groff, Manager of the Hilltown Authority, forwarded correspondence to the Supervisors last Friday outlining the Authority's concerns with respect to the on-lot septic systems, particularly the nine AB systems that are currently proposed. Mr. Groff explained that AB systems are simply small treatment facilities that the homeowner must properly operate and maintain. Since the AB systems were approved for this site, DEP

has ceased allowing AB systems to be considered in the planning stage of any development. Mr. Groff explained that AB systems involve yearly maintenance of an ultra violet disinfection system, bulbs, and filters. Further, the homeowner would be required to submit effluent samples on a yearly basis to insure that the system is operating properly. Mr. Groff does not believe an average homeowner will be able to properly maintain an AB system. He expressed concern, particularly due to the Authority's public well, which is located in very close proximity to this site, as well as the two watersheds that will be affected - the Pleasant Spring and the Morris Run.

Chairman McIlhinney pointed out that the Board is presently reviewing its Sewer Ordinance requirements to limit the ability to use a package treatment plant, only to the extent that whatever number of lots would perk would determine the size of the package treatment plant. This would prevent a developer from maximizing the density of a property.

Public Comment (Continued):

3. Mr. Lawrence Owen of 506 Rt. 313 advised that 850+ Hilltown Township residents signed a petition, which was presented to the Supervisors on March 14, 2005, to limit the expansion of public sewer service and restrict it from the RR District. He referred to the questionnaire from 2001, which notes that 1,261 of 2,500 residents would support a policy limiting the extension of central sewer service and public water. Mr. Owen believes that granting this request would strategically enable future sewer connections to the McGrath Homes site. He also asked what the legal rulings were for allowing public sewer in a district that does not permit public systems of this magnitude. Discussion took place.

With respect to the McGrath proposal, Supervisor Salvadore reminded Mr. Owen that final plans have not yet been submitted, and noted that Public Hearings would be held on the issue. Chairman McIlhinney noted that McGrath Homes is also entitled to construct a package treatment plant to serve the site.

4. Mrs. Eleanor Cobb of Rickert Road cited various motor vehicle accidents in Hilltown Township, that she believes resulted from the increased traffic congestion. According to the National Highway Safety Administration, Bucks County ranked third in Pennsylvania in the number of traffic deaths, behind Philadelphia and Pittsburgh. Presently in the area between Rts. 152 and 313, there are over 140 development homes for sale or in the process of being constructed. When all of these homes sell, Mrs. Cobb stated that traffic may increase as much as 1,400 trips per day. She noted that the present infrastructure can not handle this traffic growth, and firmly believes that the extension of public sewer lines will allow for higher density housing. Mrs. Cobb implored the Board not to extend public sewer to this site.

Supervisor Manfredi advised that Mrs. Cobb's comment that extending public sewer into the RR District would allow for higher density is an unfortunate myth. He explained that the Zoning Ordinance states that higher density is achieved through public water, not public sewer.

5. Mr. Joe Marino of Redwing Road stated that the Pennsylvania General Assembly recently instituted and created a Task Force to study sewers. He presented the Board with copies of House Resolution 88, which cites public sewer systems as the largest environmental operations in Pennsylvania communities, lauding them for protecting public health and the environment, and noting that they are responsible for discharge of clean treated waters in the Commonwealth. Mr. Marino lives in the RR District and supports the extension of public sewer when at the expense of the developer.

6. Mr. Nate Donovan of 1109 Fairhill Road applauded Mr. Rosenberger for preserving 140 acres of open space. He believes that the rampant development in the Township is directly responsible for the high real estate and school taxes, which has caused many residents on fixed incomes to move from Hilltown.

7. Mr. Jim Engler of Blue School Road stated that even though additional density would not occur by extending public sewer to this site, he believes it would facilitate future development. Mr. Engler asked why Supervisor Manfredi had suggested extending the public sewer line to Schwenkmill Road. Supervisor Manfredi believes that it would be more cost effective to extend the line to Schwenkmill Road now, at the developer's expense in the event that there are more failing systems in that area in the future.

8. Mr. John Alf of 779 Minsi Trail was opposed to the extension of public sewer to serve this site. Chairman McIlhinney opined that the cost of public water and sewer infrastructure for extension into the RR District should be borne by the developers, not the taxpayers. He reminded Mr. Alf that there are several areas of the Township where existing homes are experiencing failing septic systems, and Hilltown Township is now under orders from PADEP to fix them, which is what he is attempting to do.

Mr. Alf asked if the decision concerning the McGrath Homes proposal would be determined by the Supervisors, or by the general public. Chairman McIlhinney replied that it would be ultimately determined by the Supervisors following Public Hearings.

***8:10PM – Chairman McIlhinney recessed the regularly scheduled meeting of the Hilltown Township Board of Supervisors of September 25, 2006 in order to enter into an advertised Public Hearing to consider the adoption of the Verizon Cable Television Service Ordinance/Agreement.**

Solicitor Grabowski advised that the proposed Ordinance would authorize the signing of a Cable Television Franchise Agreement with Verizon of Pennsylvania. The proposed Ordinance was appropriately advertised in the Doylestown Intelligencer, and a copy of the Proof of Publication is on file at the Township office.

Mr. Bennington explained that the proposed Agreement came to fruition as a result of negotiations with Verizon, and with the assistance of a telecommunications legal expert, Mr. Dan Cohen from Cohen Telecommunications Group. The key points of the Agreement include the Grant of Authority, Limits and reservations, provisions of cable service, system facilities, PEG services, Franchise Fees, Customer Service, Reports and Records, Insurance and Indemnification, Transfer of Franchise, Renewal of Franchise, Enforcement and Termination of Franchise, and other miscellaneous provisions.

Mr. William Carnahan, Vice-President of External Affairs for Verizon, Pennsylvania, was pleased to present the proposed 15-year Franchise Agreement with Hilltown Township. Also in attendance were Mr. Lloyd Richardson, Verizon's Franchise Attorney, and Ms. Diane Sherry, Business Lead for Franchising for Verizon, Pennsylvania. Mr. Carnahan praised Mr. Bennington and Mr. Cohen's negotiating skills, and feels that the proposed Agreement is good, fair, and in the best interests of Hilltown residents.

Supervisor's Comments:

1. Supervisor Manfredi asked if there is a possibility for the Township to have a government television channel in the future. Mr. Bennington replied that Verizon has agreed to provide dedicated channel space for one educational channel and one governmental channel for exclusive use by Hilltown Township.
2. Chairman McIlhinney understands that many residents experience difficulties with customer service, and asked the Verizon representatives to address any questions from the public.

Public Comment:

1. A resident (who could not be identified because they did not approach the podium) asked if the cable television service would be through fiber optics or hardwired. Mr. Carnahan replied that fiber optics would be run to the premises, which is a high-speed state of the art network using fiber/glass strands. If the Franchise Agreement is approved, residents would also be receiving the internet and voice-data upgrade as well as the video portion of the cable service.

There was no further public comment.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to **adopt Ordinance #2006-6, accepting the Verizon Cable Television Service Ordinance and Agreement, as specified above.** There was no public comment.

The Board recessed this Public Hearing to execute the Verizon Cable Television Franchise Agreement.

***8:39PM – Chairman McIlhinney adjourned the advertised Public Hearing, and reconvened the regularly scheduled September 25, 2006 meeting of the Hilltown Township Board of Supervisors.**

D. APPROVALS: Action on the minutes of the June 26, 2006 Supervisor’s Meeting and Minutes of the July 10, 2006 Supervisor’s Meeting – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to approve the minutes of the June 26, 2006 and July 10, 2006 Supervisor’s Meetings, as written. There was no public comment.

C. CONFIRMED APPOINTMENTS (CONTINUED):

Public Comment (Continued)

9. Mr. Donald Strouse of 412 Blue School Road lives directly across the street from White Chimney Farms, was disheartened that the Board could not commit to an agreement for non-contiguous open space for the site. Personally, Mr. Strouse is opposed to public sewers in the RR District, and believes that it does promote development. He thanked Supervisor Manfredi for suggesting that the public sewer line be extended to Schwenkmill Road, because it might serve to recoup his property value once the White Chimney Farms development is constructed.

10. Mrs. Charlotte Rosenberger of 1239 Rt. 113 stated that it appears to her that the governing body of Hilltown Township is really the Hilltown Landowner’s Association, who politically supported both Chairman McIlhinney and Supervisor Manfredi. She feels that elected officials have a responsibility to represent all Township residents, not a select few, and noted that the Supervisors should consider the opinions of the people who oppose the extension of public sewer into the RR District.

Mrs. Rosenberger felt that the Supervisors had sufficient time to move forward with the proposed Non-Contiguous Open Space Ordinance when a motion was passed in March. Even as late as May of 2006, W.B. Homes had expressed interest in consolidating the Cinnabar Farms and White Chimney Farms proposal, however since the Board did not act promptly, the applicant lost interest. As with other recent decisions such as the

preservation of the Rosenberger land for open space, Mrs. Rosenberger expressed her displeasure with the Supervisors for their inaction with respect to non-contiguous open space. Lengthy discussion took place.

11. Mr. Joe Marino of Redwing Road stated that the proposed Non-Contiguous Open Space Ordinance could not have moved forward until the Board addressed other issues included in the Zoning Ordinance, Comprehensive Plan, the Municipalities Planning Code, and the Subdivision/Land Development Ordinance. From the very beginning, Mr. Marino raised the objection that this Non-Contiguous Open Space proposal was nothing more than a TDR program, which conflicted with 38 items in the Zoning Ordinance, Comprehensive Plan, SALDO, and MPC.

In an effort to move the issue forward, Supervisor Manfredi noted that a majority of the Board began the process by directing the Planning Commission and the Open Space Committee to jointly draft a Non-Contiguous Open Space Ordinance, and then to have that draft Ordinance reviewed by the Township Solicitor for compliance with law, which occurred in July of 2006. The Township Solicitor's recommendation is rather lengthy and clearly recommends that a Transfer of Development Rights program be considered rather than a Non-Contiguous Open Space Ordinance. Unfortunately, the issue became a moot point in May of this year because the developer was no longer interested in pursuing it. In the meantime, Chairman McIlhinney has introduced the idea of amending the Ordinance so that a density bonus could not be achieved based upon soil types, which the Board discussed in June and which is presently moving forward. Supervisor Manfredi commented that the Non-Contiguous Open Space Ordinance issue is no longer being considered.

12. Mrs. Victoria Halliday, who owns property in Blooming Glen, strongly believes that if public sewer is extended into the RR District, the floodgates for development will be opened. Mrs. Halliday challenged the Supervisors to do a fiscal analysis of the proposal, noting that additional infrastructure equates to more taxes. She supports land preservation and the farmers who have made a commitment to continue farming, and urged the Board to carefully consider their vote this evening. Chairman McIlhinney noted that there would be no increase in density on the White Chimney Farms site, and advised that the financial impact would be born by the ratepayers of the public sewer system.

Solicitor Grabowski explained that the Pennsylvania Department of Environmental Protection is the ultimate decision maker as to whether or not public sewer is permitted and what types of public sewer are permitted. While the Board of Supervisors may fight to stop a development on the issue of sewer, they can be overruled by PADEP.

13. Mr. Harry Mason of Morgan Lane provided a scenario of a developer taking the Township to court because he was denied public sewer service, and asked if the precedent of providing public sewers to another development would apply. Solicitor Grabowski did not feel that this evening's meeting was the appropriate time to discuss this rather complex issue, but he would be willing to respond to that question following the meeting.

14. Mr. David Halliday of 1259 Rt. 113 referred to the survey Mr. Owen spoke of earlier. One of the questions in that survey was "Would you support a policy that limits the extension of central sewer service and public water?" The respondents to this survey were 1,261 who replied yes with 449 respondents who replied No, and 390 respondents who had no opinion. Mr. Halliday asked if the Board would consider tabling a vote on this sewer extension request until a new survey has been accomplished. Chairman McIlhinney reminded Mr. Halliday that those survey results were from a five-year old survey done by individuals with a partisan point of view, and he personally would not be willing to conduct another survey, commenting that a government should not be run by polls or surveys. Discussion took place.

15. Mr. John Kachline of Mill Road requested clarification of the quoted approximately \$8,500.00 fee for existing residents to connect to the public sewer. In prior discussions, Chairman McIlhinney noted that the developer had indicated that they would make the tap at the street and take it to the right-of-way line of the property. The \$8,500.00 is simply the cost associated with connection of the sewer line to the dwelling unit.

16. Mrs. Nancy Boice of Mill Road asked if there are any DEP approved sewer systems that are classified below AB systems. Mr. Wynn replied that individual single-family stream discharge treatment plants are considered below AB systems. Mrs. Boice asked how many man-hours might be required to process or administer the maintenance agreements for these AB Systems. Mr. Wynn explained that annual reporting and annual testing is required by DEP. Additionally, the Township has the right to inspect the systems as often as desired, but should inspect at least once per year. Mrs. Boice agreed with Mr. Groff that the average homeowner could not properly maintain an AB system, and believes that the extension of public sewer in this instance is the lesser of two evils. She does not believe that AB systems have any place in Hilltown Township.

There was no further public comment.

Supervisor Manfredi withdrew his original motion and the amendment to the original motion.

Motion was made by Supervisor Manfredi to approve the request of W.B. Homes and have the necessary Resolution drawn for an amendment to the Act 537 Plan to allow for the extension of public sewer to the Estates at White Chimney Farms Subdivision, conditioned upon an extension of the sewer line to the intersection of Blue School Road and Schwenkmill Road; and that no minor subdivision, individual lot owner would be assessed any construction charges for the extension of that public sewer line; and that the developer recognizes that they are not entitled to recapture costs, with a lateral being provided to the right-of-way line, as noted above. For discussion purposes only, Supervisor Salvadore seconded motion.

Supervisor Salvadore cares a great deal about ground water and understands that it is important that the Township follow the Act 537 Plan. At 1:00PM today, Supervisor Salvadore walked Blue School Road, stopping at several houses along the way. A majority of those residents expressed opposition to the extension of public sewer to serve this site, with only one homeowner who supported it. Therefore, Supervisor Salvadore was opposed to the motion.

Chairman McIlhinney was in favor of the motion, while Supervisor Salvadore was opposed. Motion passed. There was no further public comment.

E. SOLICITOR'S REPORT – Mr. Francis X. Grabowski, Township Solicitor –

1. Sunoco Land Development Agreements – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept the Sunoco Land Development Agreement, and Financial Security Agreement, which provides for the guarantee of construction cost as estimated and approved by the Township. There was no public comment.

2. Summer Lea (T.H. Properties) Modification Agreement – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept the Modification Agreement for Phase I of the Summer Lea (T.H. Properties) Subdivision. There was no public comment.

3. Kirk Subdivision Sewage Maintenance Agreements – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to authorize the acceptance and execution of Sewage Maintenance Agreements for Lots #1 through #11, #13, #16, #17, #18, and Lots #20 through #28 for Sandmound Systems for the Kirk Tract Subdivision; Sewage Maintenance Agreements for Lots #12, #14, and #15 for Drip Irrigation Systems; and Sewage Maintenance Agreements for Lot #19 for an Ultimate Peat-based System Option 1 for the Kirk Tract Subdivision. There was no public comment.

4. H & K Declaration to Acquire Broad Street Playground Property – Solicitor Grabowski presented a proposed Resolution to accomplish a friendly condemnation of vacant property owned by Haines and Kibblehouse on Broad Street. Under the Stipulation and Settlement Agreement between Hilltown Township and H & K regarding quarry operations, there was a provision by which H & K agreed to convey a parcel located on Broad Street to the Township to be used for an active recreation playground area. This property is to be planted with grass and stabilized as lawn at the time that it is transferred. Subsequent to acceptance of the Agreement by the Township, a survey was accomplished where it was determined that the property consists of 9.5 acres.

Motion was made by Supervisor Salvadore, and seconded by Chairman McIlhinney, to **adopt Resolution #2006-41, Condemnation Resolution, accepting the declaration by H & K Quarry to acquire the Broad Street playground property by eminent domain, as noted above.** Supervisor Manfredi abstained from the vote. Motion passed. There was no public comment.

F. PLANNING – Mr. C. Robert Wynn, Township Engineer –

1. Sperling Tract Subdivision – Mr. Brian Horner, the applicant's engineer, was in attendance to present the plan. Mr. Wynn's engineering review dated July 11, 2006 was discussed. This minor subdivision located at the intersection of Rickert Road and Rt. 152 received a recommendation for conditional preliminary/final plan approval by the Planning Commission at their July 17th meeting, based upon the engineering review dated July 11, 2006, with recommendation as follows regarding the requested waivers:

- Request for relief of street improvements along the frontage of the site including cartway widening, curb, and sidewalk is recommended for approval subject to a contribution in-lieu-of installation of street improvements in an amount acceptable to the Township.
- Request for waiver of Section 305.C of Ordinance #2003-6 to permit use of existing impervious surface on Lot #2 in pre-development stormwater runoff calculations is recommended for approval subject to a fee in-lieu-of stormwater management facility being paid to the Township Stormwater Management Fund in an amount established by Resolution #2006-6.

In lieu of streetlights, Chairman McIlhinney suggested that driveway lamps be required at each lot. Supervisors Manfredi and Salvadore agreed.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to grant conditional preliminary/final plan approval to the Sperling Tract Subdivision, pending completion of all outstanding items as noted in the July 11, 2006 engineering review, with the requested waivers, and with the requirement for driveway lamps at each lot, as noted above. There was no public comment.

G. ENGINEERING – Mr. C. Robert Wynn, Township Engineer –

1. Hilltown High School Roof Replacement – A pre-construction meeting was held on September 20, 2006 with the contractor (Gen II Contracting, Inc.) and Bucks County Office of Community Development. On the first workday of the project, the contractor discovered that only half of the roof had sheathing, while the remaining portion had lathe. Since funding for the project comes from the Community Development Block Grant, it is built under prevailing wage requirements. The contractor will provide the Township with a final cost for additional materials and labor, though Mr. Wynn believes the cost will be approximately \$13,000.00. The contractor also recommended that the chimney be removed or repaired since a great deal of the mortar is missing. He expressed concern that the chimney may collapse onto the new slate roof with strong winds. The contractor also pointed out that the flat roof was in very poor condition and is leaking. He agreed to repair any damage caused by his crew while accessing the roof and will repair any other leaks. Lengthy discussion took place.

2. Tree Installation Proposals – Proposals have been received for replacement of street trees and installation of additional buffer landscaping on the Municipal Building property. Funding will come from the Capital Tree Fund. Proposals were received from Contemporary Landscaping (\$6,220.00), Bucks County Nursery, Inc. (\$6,735.00), and Heritage Nurseries Inc. (\$7,674.00).

Motion was made by Supervisor Salvadore to award the Tree Installation Proposals for installation of 34 trees to replace street trees in various older developments, and for installation of additional buffers along the northeastern property boundary of the Township Municipal Building site to Contemporary Landscaping in the amount of \$6,220.00. Supervisor Manfredi seconded the motion for discussion purposes only.

Supervisor Manfredi understands that this was not a 2006 Budget appropriation, and that funding for this project would come from the Capital Tree Fund. Mr. Bennington advised that approximately \$13,000.00 remains in the Capital Tree Fund.

Motion passed unanimously. There was no public comment.

3. Keystone Drive Culvert Repair Bid – Bids for the Keystone Drive Culvert Repair (Bid #2006-10), which was damaged during heavy rains earlier this year, were

advertised for opening on September 25, 2006. Only one bid was received from Anthony Biddle Contractors Inc. in the amount of \$74,885.00, which was over twice the estimated cost. Therefore, it was recommended that the bid not be accepted.

Mr. Wynn explained that this culvert wall was so badly deteriorated and eroded that it fell into the stream, and the upstream side of the wall is in almost the same condition. Mr. Wynn suggested that funds be budgeted for replacement of the entire culvert structure in the future. Based upon a contractor's estimate of cost, Mr. Bennington advised that approximately \$28,000.00 to \$30,000.00 should be received from FEMA. Chairman McIlhinney recalls that the FEMA representative had stated that if in fact the value of the damage was higher, the Township could apply for supplementary funding. Mr. Bennington will pursue this issue with FEMA.

Motion was made by Supervisor Salvadore to reject the bid from Anthony Biddle Contractors, Inc. in the amount of \$74,885.00 for Bid #2006-10 for the Keystone Drive Culvert Repair, as specified above. Supervisor Manfredi seconded the motion, with the caveat that the second to the motion was based upon the brief description Mr. Wynn provided as to why the bid is being rejected. Motion passed unanimously. There was no public comment.

4. Fedele Subdivision – Status Report/Board Direction – Mr. Wynn provided a status report of the Fedele Subdivision. In August of 2006, Mr. Forino contacted Mr. Bennington to request a meeting at the site with Chairman McIlhinney and Mr. Wynn, at which time they walked the site and reviewed the outstanding items or those items that had not been completed satisfactorily. There were some items that Mr. Fedele and Mr. Forino agreed to accomplish by the end of the following week, which included staking out the pedestrian path easement across the frontage of Lot #4 and to mow that area; and to complete the entrance of the driveway on Lots #1 and #2. On September 4th, part of the easement area was mowed. Work on the driveway entrance to Lots #1 and #2 was, according to Mr. Fedele, completed on September 19th, though no required prior notification was made to the Township. Mr. Wynn presented photographs of riprap placed in the swale, trash on the site, fine grading, the driveway entrance, and various other incomplete items.

Chairman McIlhinney asked if the grade was installed to divert the flow of water. Mr. Wynn replied that the applicant was told that they were not permitted to do so on Township easement property, and as such, Mr. Wynn has obtained a proposal from an outside contractor to do that work, as well as complete and properly mow the right-of-way/easement area along the frontage of Lot #4, improve the ground cover within the easement area, and make necessary drainage improvements along the pedestrian path. In addition, Mr. Wynn explained that the work recently performed by the applicant at the driveway entrance to Lots #1 and #2 was unsatisfactory as follows:

- Debris, including small piles of modified stone within the driveway area and roadside swale, plastic pipe, plastic bag, and all other debris, must be removed from the site and disposed of properly.
- Driveway entrance (recently disturbed) must be stoned (2A modified) from the asphalt area to the concrete barrier.
- Piles of topsoil left on the lot area immediately beyond the right-of-way must be graded, fertilized, seeded, and straw mulched.
- Area between the erosion control matting that is rough graded must be raked, fertilized, seeded, and straw mulched to stabilize.
- Stone riprap within the roadside swale is incomplete and poorly placed. The stone lined channel must extend from the riprap area at the driveway pipe through the disturbed portion of the roadside swale.
- Tree stumps and other debris pushed into the lot area south of the driveway entrance must be removed and disposed of properly, and the area must be raked, fertilized, seeded, and straw mulched to stabilize.

Mr. Wynn explained that the applicant had initially objected to mowing the easement area and right-of-way area across the property that they no longer owned, even though their Subdivision Agreement states that they are obligated to do so, not only initially but also for 18 months afterwards. Mr. Bennington sent a letter to the applicants advising their obligation was to mow that easement and right-of-way area, and that they were to stake the easement prior to mowing. Mr. Wynn suggested that the Public Works Department properly mow the area, with the cost to be reimbursed from the defaulted funds. With respect to the grate on the pedestrian path, Mr. Wynn received correspondence last week from the applicant's engineer, who agreed that a grate should be installed and presented a design for consideration. Mr. Wynn did not review the grate design because he realized the grate as proposed was cheap and could not withstand vehicle traffic, which is necessary for emergency services or for use by PP&L to maintain their power lines. Discussion took place.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to advise the developer that the Township intends to complete the outstanding improvements at the Fedele/Forino Subdivision, using escrow funds to secure a contractor to complete and properly mow the right-of-way/easement area along the frontage of Lot #4, improve the ground cover within the easement area, and make necessary drainage improvements along the pedestrian path. There was no public comment.

5. Aichele Subdivision – Improvements Completion - Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept completion of improvements for the Aichele Tract Subdivision, and to commence the 18 month maintenance period while retaining 15% of the original escrow in the amount of \$2,355.57. There was no public comment.

6. Pompei Subdivision – Improvements Completion – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept completion of improvements at the Pompei Subdivision, and to commence the 18-month maintenance period. There was no public comment.

7. Wallace Tract Subdivision – Improvements Completion – Improvements have been completed at the three-lot subdivision located on Broad Street, including cartway widening, curb, storm drainage, street trees, and miscellaneous on-lot stormwater mitigation improvements. The developer has requested the commencement of the 18-month maintenance period. Lot #3 has not yet commenced construction and is still owned by the applicant, who agreed to provide an additional \$500.00 cash escrow for the installation of a driveway lamppost on Lot #3. Mr. Wynn’s correspondence dated September 15, 2006 was discussed.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept completion of improvements for the Wallace Tract Subdivision, and to commence the 18-month maintenance period with the requirement for an additional \$500.00 cash escrow for the driveway lamppost on Lot #3, as noted above. There was no public comment.

H. OLD BUSINESS:

1. Hilltown Chase Subdivision Goose Nuisance Complaint – Mr. Bennington and Mr. Wynn provided a status report on the goose problem being experienced at the detention basin/open space area in the Hilltown Chase Subdivision. In response to the Township’s offer to relinquish open space ownership, the Homeowner’s Association suggested a short-term solution to install a low-power strobe device in the pond, and a long-term solution of the installation of a 3-rail split rail fence with wire mesh backing around the perimeter of the pond. Mr. Wynn explained that an effective way to deter geese from a pond is to maintain very high brush along the edge of the water so that the geese cannot see their enemies. Part of the problem in this instance is that an area immediately around the pond was mowed, which provides excellent ingress and egress for the geese.

Supervisor Manfredi suggested that a very low, single strand of wire be installed around the perimeter of the pond. Mr. Wynn agreed that this method is very effective, since

geese will not step over the wire, nor will they duck under it. He feels that the suggestion of a three-rail split rail fence with wire mesh backing is over-kill from the standpoint of geese control. Supervisor Salvadore visited the site this week and noted that the brush has grown back fairly high. During her visit, she did not witness any feathers, goose droppings, or geese. It appears that the residents have stopped mowing a path to the edge of the pond since "No Mow" signs have been erected.

Public Comment:

1. Mr. Joseph Leo of 23 Paige Trail disagreed with Mr. Wynn that the high grass around the edge of the pond is a deterrent. The geese simply fly in and fly out without exiting the pond on foot. He noted that the neighboring properties are covered with feces, and several play sets and patios have been ruined. Another reason the residents have requested that a fence be installed is for safety reasons to keep children out of the pond. Chairman McIlhinney noted that initially, 30+ property owners were in agreement to take possession of the pond and open space via a lease, and he was very surprised that they had changed their mind. Supervisor Manfredi asked if a majority of the property owners support this request. Mr. Leo replied that all residents living on the internal circle of the development, whose properties directly abut the pond, support the installation of a fence. Discussion took place.

2. Ms. Alice Lintgen of 48 Paige Trail serves on the Board of the Homeowner's Association. She noted that the Association decided that they did not wish to take control of the detention basin and the open space due to liability issues, and because of the possibility that they would have to pay real estate taxes. Mrs. Lintgen advised that the Homeowner's Association is now seeking permission to erect the fence on the open space.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to grant permission for the Hilltown Chase Homeowner's Association to install a three-rail split rail fence with wire mesh backing around the open space pond in the Hilltown Chase Subdivision. There was no public comment.

2. Deep Run Valley Sports Association Request – Correspondence was received from Deep Run Valley Sports Association with respect to the Telegraph Road athletic fields (current lease expires in 2009). Deep Run has determined that topsoil covering those fields is inadequate for playing soccer due to the rocks underneath the topsoil, presenting a danger for players. Deep Run is willing to incur the expense to place additional topsoil, seeding, fertilizer, and maintenance, if the Board would be willing to extend the lease for a term of 10 years. This matter was briefly discussed at the September 11th Supervisor's meeting.

Solicitor Grabowski advised that this is a policy consideration for the Board of Supervisors. Upon reviewing the proposed lease agreement, he noted that language within paragraph #13 has been changed from the original document, which prohibits the use of any lighting on the property without prior permission of the Township. The language change now provides for express permission for Deep Run to use portable lights without notification to the Township. Solicitor Grabowski stated that the open space land on Telegraph Road was dedicated to Hilltown Township as part of the Orchard Hill Subdivision, and suggested that the approved plans be reviewed to determine if there is any prohibition of allowing lighting on that property. Chairman McIlhinney suggested that a provision be added stating that should Deep Run cease to exist or not use the property on a regular basis, that the lease would automatically terminate and the general public could then use the property.

Mr. Hans Sumpf, president of Deep Run, is unaware of how the language regarding lighting was changed. Mr. Sumpf also noted that the Telegraph Road field is always available for use by the general public when Deep Run is not scheduled for use. Discussion took place.

Motion was made by Supervisor Manfredi to grant Deep Run Valley Sports Association's request to extend the existing lease for the Telegraph Road athletic fields for a period of ten years, conditioned upon the Township Solicitor inserting language into the Agreement that would clearly state that should Deep Run, for any reason, cease exercising its rights for this site, that the Agreement be null and void. Motion was seconded by Supervisor Salvadore, and carried unanimously. There was no public comment.

3. Hilltown Ridge Stormwater Runoff – Mr. Wynn provided a brief status report of the efforts to resolve the stormwater runoff issues affecting several lots in the Hilltown Ridge Subdivision. He presented photographs noting the progress to the rear yard areas on the north side of the site. In many areas, swales have been installed between the lots. Because of the grade elevation, a dwelling, and some landscaping, there were two lots where a swale could not be installed. In those cases, an under drain of pipe was run through a yard inlet in the rear of the property and a section of sidewalk was removed so it would tie in correctly to the inlet in the street. Each property drain now collects runoff from only one lot.

Mr. Wynn advised that the topsoil stockpile is not being removed very expeditiously, with only approximately 15% of the stockpile removed since the last meeting. Discussion took place.

Public Comment:

1. Mr. Mark Paulits of 3204 Berry Brow Drive thanked the Board of Supervisors and Mr. Wynn for their assistance in this matter. The only outstanding stormwater issue still remaining on his side of the street is replacement of the sidewalk. Discussion took place. Mr. Paulits asked who is responsible for the maintenance of the cul-de-sac area, where the pumping station is located. Solicitor Grabowski advised that it is the responsibility of the Hilltown Authority.

Mr. Paulits questioned the use of fire hydrants in the development. It is Mr. Groff's understanding that members of certain fire companies have been opening and emptying the water in the hydrants, while the Hilltown Authority is conducting bacteriological testing. At that point, the line that was to be put in service once the test was complete, must now be re-tested. While some of the hydrants in the development are not currently operating, Mr. Groff explained that it is not because they are broken; rather it is because either the water line construction or the testing process is not yet complete. He assured the residents that there is fire protection to the entire development.

I. NEW BUSINESS:

1. Harleysville Savings Bank Sketch Plan Meeting – Harleysville National Bank has provided the necessary escrow for a staff sketch plan meeting with Mr. Wynn to discuss their proposal to construct a bank and office building on County Line Road near its intersection with Rt. 113, next to the CVS Pharmacy.

Supervisor Manfredi had no objection to a staff meeting for the purpose of making the developer aware of the Township's regulations and to answer any questions they may have to aid in submission of a plan.

2. Orleans/Bennett Sketch Plan Meeting – Notification that Orleans Builders has scheduled a staff sketch plan meeting for September 29th with Mr. Wynn to discuss their proposal for the Bennett property located on Fairhill School Road.

It is Chairman McIlhinney's understanding that this would be the third sketch plan meeting, and noted that he and Supervisor Manfredi were not made aware of the second sketch plan meeting that took place. Further, Chairman McIlhinney does not feel that more than one sketch plan meeting is necessary.

Supervisor Salvadore explained that several months ago, she met with and walked the Bennett property with the chairmen of the Open Space Committee (Jeff Lapp), Park and Recreation Board (Jon Apple), and Planning Commission (Brooke Rush) to consider various creative development options, while taking the Conservation by Design principle

into account. Chairman McIlhinney noted that he also walked the property that day, but only after inadvertently learning that a meeting was being held. Following that walk and meeting, Mr. Lapp, Mr. Apple, and Mr. Rush then requested a meeting with Mr. Wynn to discuss their ideas for development of the Bennett property in greater detail.

Supervisor Manfredi asked if Supervisor Salvadore, through Mr. Wynn, had requested a sketch plan meeting with the developer. Supervisor Salvadore denied that she did. She stated that she and the three board chairmen had asked Mr. Wynn to approach the developer to determine if they would be interested in considering any of the creative development ideas. Supervisor Manfredi stated that there are processes and procedures in place for sketch plan meetings. He is not objecting to creative thinking by the boards, in fact he would welcome it, however he noted that the procedure is to bring forth those ideas to the Board of Supervisors at a public meeting and to seek direction before proceeding to meet with developers. Supervisor Salvadore apologized for not following procedure, however she felt that this collaboration of boards has resulted in a better plan for that property. Chairman McIlhinney felt it was inappropriate for one Supervisor to meet with a developer and the three board chairmen, thereby giving the impression that the suggestions provided reflect the feelings of the entire Board of Supervisors, which in this instance, is not the case. Supervisor Salvadore accepted the responsibility for not following the established process, and hopes that the creative concept proposed by the three board chairmen can be salvaged for this property. The sketch plan meeting process was explained in great detail. Lengthy discussion occurred.

Since the established policy has been deviated from, it was Chairman McIlhinney's opinion that the requested staff meeting on September 29th with Orleans Builders should be cancelled, and Supervisor Manfredi agreed.

J. MYLARS FOR SIGNATURE: Sunoco Land Development

K. SUPERVISOR'S COMMENTS:

1. Supervisor Salvadore noted that the Board of Supervisors has been asked on several occasions to bring forth, discuss and review the seven draft Zoning Ordinance amendments as provided by the Planning Commission last August, along with the proposed Snow and Ice Ordinance, Ordinances revising meeting attendance for the Park and Recreation Board and Planning Commission, and the two Sewer Ordinances (Section 124 and Section 140). Supervisor Manfredi would like all Ordinance amendments, as discussed above, to be placed on either the October or November Worksession meeting agenda. The Board agreed.

2. Supervisor Manfredi wanted the record to reflect that the reason he voted differently in this case to allow extension of public sewer to serve the White Chimney

Farms site in the RR District is because of the environmental water quality issue, and that his decision was based upon the information that was submitted to the Board of Supervisors. Supervisor Manfredi was most concerned with nearly 50% of those lots being served by AB Systems, given the nearby streams, terrain, topography, and slopes, and noted that it did not appear to be environmentally sound to permit on-lot systems.

3. Supervisor Manfredi requested that the following issues be agenda items for the October Worksession meeting agenda: a) Establish dates for the next Land Use Forum; b) Consider authorization the Township Manager, Engineer, and Solicitor to work with the Delaware Valley Regional Planning Commission on developing a Transfer of Development Rights Program; c) Discussion of Natural Resources Inventory; and to add the amendment of the Act 537 Plan to the Supervisor's long-range plan.

Chairman McIlhinney agreed with the suggestion to research and discuss the TDR program as envisioned by the DVRPC, which is a program that is a 1 to 1 ratio between buyer and seller, with no advantages given to someone who wants to amass land. Supervisor Manfredi commented that this is the reason the Non-Contiguous Ordinance issue is no longer relevant, since it was designed particularly for the White Chimney Farms/Cinnabar Farms site.

Supervisor Salvadore asked who would conduct the Natural Resources Inventory. Supervisor Manfredi replied that it is normally conducted by an independent organization or a group, and the reason he brought it to the Board's attention is because it will need to be a 2007 budget issue.

L. PUBLIC COMMENT:

1. Mr. Wayne Rankin was in attendance representing Steve Knute of Rosenberger Drive with respect to the stormwater issues caused by Cheyenne Enterprises. The Board previously authorized the Township Engineer to inspect and evaluate the site. Mr. Rankin noted that one outstanding issue remains. While viewing the rear of the property the backyard resembles one side of an hourglass, and the water is channeled to a newly created swale. The swale is approximately 60 or 70 ft. in length, which then flares out and the water is to dissipate itself on the other side of the hourglass, and over the front lawn. Unfortunately, Mr. Rankin advised that the rough grading as it flares out across the front yard is actually higher than Mr. Knute's property so that the flare now carries the water not only across Cheyenne Enterprises' property, but a portion is also directed onto the Knute property. Mr. Rankin believes that the flaring on the side of the Cheyenne Enterprises property should be raised so that water is not directed onto the Knute property. Further, the sandmound on the Cheyenne Enterprises property was not properly located on the site as it was shown on the plan. He advised that the sandmound is 62 ft. long and is located in a corner of the property. Since the sandmound

has not been properly seeded and stabilized, much of the siltation has flowed onto the Knute property.

Supervisor Manfredi received a phone call from Mr. Knute's neighbor with respect to a drainage ditch issue, and visited the site this past Saturday. He discussed the issue with Mr. Wynn today, and both agree that this is clearly a private matter because this is a private road. Chairman McIlhinney commented that no effort has been made by the residents of that private road to rectify the situation. He visited the site during a rainstorm, and discovered that the ditches have all been filled with dirt.

Mr. Rankin asked the Board to only reflect on his earlier comments, and noted that the issue of the drainage swale along the road is not what he is complaining about. He wishes to discuss the issue of the common property line between the Cheyenne Enterprises site and the Knute property, which in his opinion, is a matter of stormwater control. Mr. Rankin believes that this problem would not have occurred if the Cheyenne Enterprises sandmound had been placed in the correct location. Lengthy discussion took place. Mr. Wynn will review the plan to ascertain Mr. Rankin's observations with respect to the property line swale.

With respect to the road issues, Mr. Wynn explained that the work Cheyenne Enterprises is conducting, under Stormwater Ordinance, is not a regulated activity. The Stormwater Ordinance regulates subdivision of land, impervious surface of 1,000 sq. ft., and changes to a natural or manmade watercourse, but not to a roadside ditch. It is clear to Supervisor Manfredi that if Cheyenne Enterprises wanted to reshape the ditch and connect it to a swale along the property line, it could be accomplished rather easily. Mr. Wynn agreed. The Board directed Solicitor Grabowski to investigate the issue and determine if there is any action that can be taken by the Township since it is located on private property.

2. Mrs. Nancy Boice of Mill Road recalls that the Orleans/Bennett proposal was last before the Planning Commission in February or March of this year, with a number of sketch plans. The Planning Commission was under the impression that the proposal was still a work in progress and that they would have the opportunity to work with the developer to prepare the best, most creative plan possible. However, the very next week, Orleans Builders appeared before the Supervisors with the same three sketch plans. Part of the Planning Commission's frustration appears to stem from the expectation that they would review the applicant's final sketch plan prior to consideration by the Supervisors. Supervisor Manfredi noted that it is the applicant's choice as to whether they reappear before the Planning Commission for a second time, prior to making a sketch plan presentation to the Board of Supervisors. Mrs. Boice does not believe that it was there was an intentional separation from the process.

3. Ms. Sandy Williamson of Mill Road recalls that when the Orleans/Bennett proposal appeared before the Planning Commission, the applicant's engineer was open to ideas, was willing to work with the Township, and was seeking direction. She hopes that the opportunity for the various boards and commissions to conduct site visits will not be repressed. Ms. Williamson feels that the more the committees work together, and the more accessible the Board of Supervisors is to the committees, can only encourage better plans to be submitted to the Township. Supervisor Manfredi advised that the fact remains that this Board of Supervisors is ultimately responsible. If the boards and commissions want to do this, they must work with the developer in the context of a public meeting, with the Supervisors being in the process as well. He explained that it is the Planning Commission's role to review plans to insure that they comply with the Zoning Ordinance, the Subdivision Ordinance, and the Municipalities Planning Code. If the applicant, after the Planning Commission has voted on a plan, wishes to come before the Board of Supervisors, they have that right. Ms. Williamson suggested that the Board of Supervisors, the Park and Recreation Board, and the Planning Commission attend next Tuesday's Open Space Committee meeting on October 3, 2006 to discuss the Orleans/Bennett plan further. Lengthy discussion took place.

On a different subject, while Ms. Williamson understands that Mr. Bennington is just doing his job, she felt that it was very distracting for the Township Manager to call "One Minute Remaining" warning and "Time Expired" warning during the Public Comment segment of the meeting.

M. PRESS CONFERENCE: A conference was held to answer questions of those reporters present.

N. ADJOURNMENT: Upon motion by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously, the September 25, 2006 Hilltown Township Board of Supervisors meeting was adjourned at 11:50PM.

Respectfully submitted,

Lynda Seimes
Township Secretary

(*These minutes were transcribed from tape recordings taken by Mr. Ken Bennington, Township Manager, and are not considered official or approved until voted upon by the Board of Supervisors at a public meeting).