

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, August 11, 2008
7:00PM**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairman Richard J. Manfredi at 7:00PM and opened with the Pledge of Allegiance.

Also present were: John B. McIlhinney, Vice-Chairman
Barbara A. Salvatore, Secretary/Treasurer
Christopher S. Christman, Township Manager
William E. Wert, Asst. Mgr./Parks, Rec. & Open Space Director
Judy Stern-Goldstein, Township Planner
Christopher E. Engelhart, Chief of Police
Lynda S. Seimes, Admin. Asst. to Township Manager

A. ANNOUNCEMENTS:

1. Chairman Manfredi announced that Supervisors McIlhinney and Salvatore met in Executive Session on August 1, 2008 to discuss personnel and litigation issues, however he was not in attendance.

2. The next Household Hazardous Waste Collection will be held on Saturday, August 16th from 9AM to 3PM at the Bucks Co. Technical High School located at 610 Wister Road in Bristol. For additional locations and more information as to what items are accepted, please visit our website at www.hilltown.org.

B. PUBLIC COMMENT ON AGENDA ITEMS ONLY:

1. Mrs. Marilyn Teed of Mill Road asked the outcome of the Board's Executive Session on August 1st with respect to the legal bills from Ballad Spahr for a personnel matter and from Weber Gallagher for the Teed matter. Supervisor Salvatore advised that the issue Mrs. Teed is referring to was not discussed at the August 1st Executive Session. Since it appears that the Township continues to pay bills to these two law firms, Mrs. Teed therefore assumes that the Board of Supervisors is in agreement with what they are doing. Supervisor McIlhinney explained that he had requested that the legal bills from these two firms be held and not paid until the Board could meet with their representatives to discuss the status of both cases.

C. CONSENT CALENDAR:

- Acceptance of Financial Report as of July 31, 2008.
- Acceptance of Public Works Report for month of July 2008.
- Acceptance of Police Reports for months of June and July 2008.

- Acceptance of Fire Company Reports for month of July 2008 – Dublin, Perkasio, Silverdale and Souderton.

Motion was made by Supervisor Salvadore, and seconded by Supervisor McIlhinney to accept the Consent Calendar as noted above. Prior to a vote, discussion took place.

Supervisor Salvadore noticed that there are significantly fewer written and verbal warnings in June, and that there were a great deal more injury accidents in the month of June as well. Discussion occurred.

Motion carried unanimously. There was no public comment.

D. UNFINISHED BUSINESS:

1. Consider appointment of committee members to Blooming Glen Village Study Advisory Committee; and consider the appointment of committee members to the Parks, Recreation and Open Space Citizen Advisory Committee – After discussion, this matter was tabled for consideration during Executive Session later in this meeting.

2. Consider the following proposed Ordinance amendments:

a. Zoning Enforcement Ordinance: The Board discussed and reviewed the Zoning Officer Enforcement Provision Ordinance as referred to in Ms. Stern-Goldstein's correspondence dated August 7, 2008.

- Section 160-83.B (2) – Remove the bolded words at the end of the first sentence, which states “Enforce the provisions of this chapter by the issuance of enforcement orders, including cease and desist orders, **or by other means.**”
- Section 160-83.B (2) – Add the bolded word as highlighted in the second sentence, which states “Such written orders shall be served personally **and**/or by certified mail upon the persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this chapter in accordance with the terms of this chapter....”
- Section 160-83.B (5) – Supervisor Salvadore believes the words “**other parties**” should be clarified in the following sentence, which states “Provide applicants **and** other parties with copies of items sent to the Zoning Hearing Board.”

- Section 160.83.B (11), which states “Revoke any order of zoning permit issued under a mistake of fact or contrary to the law or the provisions of this chapter.” During the previous discussion, Supervisor Salvadore believes that the Board had added language to this section directing that appropriate communication with the individual should first occur before a permit issued in error is revoked. Ms. Stern-Goldstein she recalls that Solicitor Grabowski had advised that requiring additional steps prior to the revocation could tie the hands of the Zoning Officer. She noted that there are some instances where the Zoning Officer may need to revoke a permit, and if more processes are in place than are required by the MPC, it could be cumbersome. She commented that what Supervisor Salvadore suggested is more of a policy or job description issue, rather than an Ordinance issue. Mr. Christman assured Supervisor Salvadore that this procedure could be addressed.

- Section 160-83.A. – Chairman Manfredi had understood that the Zoning Officer would be hired by the Township Manager, not appointed by the Board of Supervisors as is noted in the first sentence of this paragraph. Discussion occurred. Mr. Christman advised that the Zoning Officer is generally reappointed by the Board of Supervisors at their Reorganization meeting on a yearly basis. Chairman Manfredi stated that annual appointment or reappointment of individuals is not required in all cases. In this matter, Mr. Christman noted that the question is whether or not the Zoning Officer is considered a “department head.” If so, it would fall under a different category in the most recently adopted Manager’s Ordinance, where the Supervisors have consent on any department head appointment. Chairman Manfredi does not believe that the Zoning Officer should be considered a department head. Supervisor McIlhinney disagreed since the MPC requires that individual to be a quasi-independent judicial administration-type job, which should not be under the direct control of the Board of Supervisors. He noted that the Zoning Officer’s duty is to interpret the Zoning Ordinance without interference by the Board of Supervisors. Ms. Stern-Goldstein pointed out that the phrase in the draft Ordinance is a direct quote from the MPC. Chairman Manfredi agreed, however it does not state who shall appoint the Zoning Officer, and therefore, the Board can transfer that authority upon the Township Manager. Discussion occurred.

- Section 160-83.B (3) – second sentence states “Where required, applications shall be forwarded to the Planning Commission, Building Inspector, Township Engineer, and Zoning Hearing Board for approval or disapproval.” Chairman Manfredi does not believe it is necessary for

zoning permit applications to be reviewed by the Planning Commission, and suggested that clarification be sought from Solicitor Grabowski.

- Section 160.83.B (10) – Chairman Manfredi feels this language is subjective and suggested that the words “**or when duly authorized**” replace the words “or when directed by them.” The Board directed Mr. Christman to have Solicitor Grabowski review this suggested language change.
- Section 160-83.B (17) – Chairman Manfredi questioned the following language “Present such facts, records, and any similar information to the Planning Commission, Zoning Hearing Board, or Board of Supervisors upon their request.” Supervisor McIlhinney agreed that the Planning Commission should not have jurisdiction over something that they have no right to be privy to.

The draft Ordinance was tabled pending review by the Township Solicitor.

b. Conservation Management Design Ordinance: The Board discussed and reviewed the proposed Conservation Management Design Ordinance as referred to in correspondence from the Township Manager dated August 8, 2008, from the Township Planner, dated June 13, 2008 and from the Township Engineer, dated February 25, 2008.

- Supervisor McIlhinney noted that this proposed Ordinance was to provide for an option for a landowner to consider in the RR District, not as a separate zoning district. Supervisor McIlhinney referred to Mr. Wynn’s correspondence date July 9, 2007, which states: “Since the ERSAP (Existing Resources and Site Analysis Plan) increases plan preparation detail and cost for approval of development plans (due to the higher level of feature identification and review), lot line adjustment and minor subdivision plans are normally exempt from ERSAP requirements and in some cases, small subdivision plans of a designated number of lots (i.e. up to five lots may be exempt from the ERSAP requirement).” It does not appear to Supervisor McIlhinney that the proposed Ordinance addresses the possibility of exemption from providing an ERSAP. Further, he referred to the fact that Mr. Wynn had previously noted that ERSAP plan preparation is very detailed and costly. To make the ERSAP report even more cumbersome, in Supervisor McIlhinney’s opinion, would result in developers being discouraged from pursuing the Conservation Management Design option.

- Supervisor McIlhinney would prefer that any language referencing the word "**historic**" be removed from the proposed draft. He commented that the proposed Ordinance, in many sections, continues to refer to the term "historic resources" yet in the Supervisors meeting minutes of June 9, 2006 (page 14) it states "After much discussion, the Board agreed to remove the phrases 'wildlife habitat' and 'historical structures' from the listing under the "Purpose" portion of the Conservation Management Design." Supervisor Salvadore suggested that the words "**natural features**" and "**buildings of significance**" both be considered. Supervisor McIlhinney does not feel that this wording belongs in a Zoning Ordinance, particularly one that is designed to encourage developers to preserve unique natural features of the land. Lengthy discussion occurred.

It was Chairman Manfredi's interpretation that the purpose of this Section is to specify what must be included and identified on the plan as existing resources during the site analysis. Identifying a historic resource or building on the plan is fine, however Chairman Manfredi stated that it should not prohibit the implementation of the Conservation Management Design option. He suggested that the words "**historic buildings and resources**" in Section 140-23A.B.(2).j on page 3 of the draft Ordinance be removed, and also suggested that item l be revised to state "Existing building, structures, roads, and **natural resources.**"

- Chairman Manfredi advised that any reference to aquifers appears to be missing from the proposed Ordinance.
- Supervisor Salvadore asked if there is a reference to the phrase "**Scenic Views,**" which Chairman Manfredi believes the Board approved to remain in the proposed Ordinance. Supervisor McIlhinney commented that the Board did not agree on "scenic views," rather what was agreed upon, in his opinion, was Chairman Manfredi's description as referred to in the June 9, 2006 meeting minutes, meaning that viewscapes are meant to preserve the view for that particular development, not for the surrounding properties. If that is the case, Supervisor Salvadore suggested that the words "**Scenic Views**" be better defined.
- Discussion took place concerning Section 140-23A.B.(D) – Site Visit, which states, "After preparing the ERSAP, applicants shall arrange for a site visit of the property by Township representatives and shall distribute copies of the site analysis plan prior to the onsite meeting." Chairman Manfredi felt that it should be made clear who those authorized Township

representatives are. Ms. Stern-Goldstein recommended that list include the Township consultants who would be advising the Planning Commission, including the Engineer, Solicitor, and Planner, as well as the Planning Commission members and members of the Board of Supervisors. Chairman Manfredi questioned the inclusion of the Planning Commission and Board of Supervisors members. Ms. Stern-Goldstein explained that when this scenario was developed, the reason for the site visit was to provide the individuals reviewing, making recommendations on and acting on the plan, with the opportunity to view the site together in order to determine what environmental resources might be worthy of preservation. Personally, Chairman Manfredi would be hesitant since a site visit with all three Supervisors could be construed as a violation of the Sunshine Law. Ms. Stern-Goldstein advised that it would be an advertised public meeting. Discussion occurred. Chairman Manfredi would be more comfortable if the Township representatives would include only consultants, such as Engineer, Planner and/or Solicitor. He is most concerned with the appearance of impropriety if more than one member of the Board of Supervisors were to visit the site at the same time. Supervisor McIlhinney agreed. Discussion took place. The Board directed the Planner, Engineer, Manager, and Solicitor to provide them with recommendations concerning this issue no later than the September 8th Worksession meeting.

This proposed Ordinance was tabled for consideration at a future meeting. No action taken.

c. Conservation Management Design Table of Use Regulations: The Board discussed and reviewed the proposed companion Conservation Management Design Ordinance as referred to in correspondence from the Township Manager, dated August 8, 2008, from the Township Planner, dated June 13, 2008, and from the Township Engineer, dated February 25, 2008.

The Board of Supervisors made the following comments with respect to the proposed Conservation Management Design Table of Use Regulations Ordinance:

- After reviewing the Bulk and Area Requirements/Performance Standards, Supervisor McIlhinney asked what the incentive would be for a developer to complete their project in accordance with this Ordinance. Ms. Stern-Goldstein tended to agree. She noted that normally, there is a certain amount of open space in a CMD subdivision, with smaller lots in return for more density and less land disturbance. However, in this proposed Ordinance, the lot positives are the same between Cluster and Conservation Management. Supervisor McIlhinney felt the proposed

Ordinance itself retains some good planning features, but feels more incentives must be provided. Chairman Manfredi believes that a quasi-Cluster flexible lot concept could be satisfactorily merged with the CMD feature to reach a happy medium. Supervisor McIlhinney commented that the idea was not to penalize a potential developer by requiring an abundance of open space. Rather the idea was to make the developer consider contouring his site to retain existing features and to construct the dwellings accordingly. Supervisor Salvatore recalls that Supervisor McIlhinney was a proponent of flexible lots, which would allow the inclusion of open space areas within each deed restricted lot, so that tax revenues could still be realized while preserving areas of open space. Ms. Stern-Goldstein agreed, but does not feel that concept came through in this companion Ordinance.

Mr. Wynn's correspondence of July 9, 2007 states that another alternative that is more owner/developer-friendly than a traditional Cluster Ordinance, while allowing for protection of natural resources is a Flexible Lot Use. The concept of the flexible lot is opposite of traditional zoning, which essentially results in a development of similarly sized lots. Further the use of a flexible lot design allows a property owner/developer to reduce the lot area and lot width to take advantage of natural features site specific to the parcel. Chairman Manfredi suggested that the Township encourage open space into the plan design with the ERSAP, however without a strict percentage requirement for open space. Ms. Stern-Goldstein commented that an area of primary resources could be designated through the ERSAP process, and then that area would be protected through either deed restricted lots or common open space. However, she noted that this would not address any common areas for recreation. Supervisor McIlhinney advised that common areas would be dictated by the natural features of the property and would have to be considered on a case-by-case basis. The Board agreed, and directed Ms. Stern-Goldstein to meet with the Engineer and Manager to consider the matter of usable areas of preservation for specific purposes.

This proposed Ordinance was tabled pending receipt of additional information. No action taken.

d. Billboard Ordinance: Supervisor Salvatore previously expressed concern with the safety of electronic billboards, citing the fact that she passes one on Rt. 309 on a daily basis.

The Board discussed and reviewed a draft Ordinance regulating the use of electronic billboards within Hilltown Township:

- Several months ago at the Board's behest, Mr. Christman provided the results of the NTSB analysis of the affects of electronic billboards on motorists. Ms. Stern-Goldstein advised that the National Transportation Safety Board does not recommend prohibition of billboards, nor does the Federal Highway Administration or PennDot. Rather, those agencies have recommended changing electronic messages as often as every 5 seconds could be acceptable in certain circumstances. Various states, commonwealths and municipalities have all reviewed the information and arrived at different conclusions. Not surprisingly, a recent study conducted by Virginia Tech funded by the Billboard Association found that electronic billboards were safe. Ms. Stern-Goldstein advised that New York State mandated a 24-hour message change time, however that ruling was recently overturned to permit a message change once every minute. She also reminded the Board that even the Federal government permits the change of message every five seconds on their highways. Ms. Stern-Goldstein stated that the municipalities of Newtown, Wrightstown, and Upper Makefield are currently considering a total prohibition of all changeable copy signs not just off-premise signs, including time and weather, fire company signs, etc., because they view them as driver distractions.
- Supervisor McIlhinney asked if any lawsuits have been filed protesting the total prohibition of electronic or changeable copy signs. Ms. Stern-Goldstein replied that there is presently a curative amendment filed by Adams Outdoor Advertising in Smithfield Township, who had prohibited any moving, tri-vision, multi-vision, spinning, swirling or other electronic signs.
- Chairman Manfredi is most concerned with the brightness, the lumens, the frequency of message changes, and flashing within the message. If these items could be regulated, he believes that these types of electronic billboards would not be as distracting. He would certainly agree with a total ban of video billboards. Chairman Manfredi requested that an analysis be done of electronic billboards vs. static illuminated billboards. Ms. Stern-Goldstein suggested that a representative of the outdoor advertising industry be present at an upcoming Supervisors meeting, or meet with the staff who could then provide a report to the Board of Supervisors.

This proposed Ordinance was tabled pending additional information following a meeting between the staff and outdoor advertising industry representatives for the purpose of providing a report to the Board of Supervisors.

E. NEW BUSINESS:

1. Appoint Christopher S. Christman as Assistant Secretary – Motion was made by Supervisor Salvadore, seconded by Supervisor McIlhinney, and carried unanimously to appoint Christopher S. Christman, Township Manager, as Assistant Secretary.

2. Discussion regarding Community Development Block Grant Funding Public Hearing tentatively scheduled for September 8, 2008- Chairman Manfredi had asked that this item be removed from the Consent Calendar to be discussed in greater detail.

The amount of funding available is \$112,200.00 and the general types of eligible activities include: acquisition of real property, public facilities or improvements, removal of architectural barriers to the handicapped, rehabilitation of public or privately owned buildings, historic preservation, financial assistance to private businesses for economic development, and preparation of Comprehensive Plans and administrative costs.

Mr. Christman advised that the Director of Public Works requested that the Board consider awarding funds for the full paving of Reliance Road as has been done in the past. This project would utilize not only the entire amount of CDBG funding, but would also require supplemental Liquid Fuels funding to complete the project.

The Board of Supervisors directed Mr. Christman to provide them with a listing of possible municipal projects to utilize this funding.

F. BOARD MEMBER COMMENT:

1. Both Chairman Manfredi and Mr. Christman attended a recent Rt. 309/County Line Road improvements project meeting. Chairman Manfredi directed Mr. Christman to provide the information that was received at that meeting to Supervisors McIlhinney and Salvadore.

2. Chairman Manfredi noted that the Arch Diocese of Philadelphia is considering the construction of a high school in Hilltown Township, which is a permitted use in the RR District. He had asked Mr. Christman to investigate whether an athletic stadium is permitted in the RR District. It was determined that the Ordinance permits a “play area” use in the RR District, which Chairman Manfredi feels is more likened to a

tot lot or play field, rather than an athletic stadium. Mr. Christman advised that the Zoning Officer's interpretation was that a "play area" would not include a football stadium with bleachers, but felt that a football field without bleachers could technically be considered a "play area."

In an effort to be proactive, Chairman Manfredi suggested that the Board give consideration to proposing possible language revisions to the Ordinance to make it clear as to what a "play area" includes or does not include. Supervisor Salvadore agreed. Mr. Christman was directed to investigate possible language revisions. Supervisor McIlhinney would characterize that as a preemptive strike, which he felt was unnecessary and commented that it should not be a surprise that the Arch Diocese would propose an athletic stadium to complement their high school complex. Discussion took place.

****Chairman Manfredi adjourned the regularly scheduled meeting of August 11, 2008 at 9:08PM in order to enter into Executive Session to discuss the possible appointment of individuals to the Blooming Glen Village Study Advisory Committee and to the Parks, Recreation and Open Space Citizen Advisory Committee.**

****The regularly scheduled meeting of the Hilltown Township Board of Supervisors of August 11, 2008 was reconvened at 9:33PM.**

****Chairman Manfredi announced that the Board would again enter into Executive Session immediately following the adjournment of this meeting to continue discussion on personnel issues, specifically appointments to the Blooming Glen Village Study Advisory Committee and the Parks, Recreation and Open Space Citizen Advisory Committee.**

G. PUBLIC COMMENT:

1. Mrs. Marilyn Teed of Mill Road asked the correct name of the Conservation Management Ordinance the Board discussed earlier this evening. Chairman Manfredi replied that there are two companion Ordinances, both referring to the Conservation Management Design Ordinance. That being the case, Mrs. Teed noted that the agenda item was incorrectly listed as "Conservation Management District Ordinance." She wondered if there was an ulterior motive by this Board to adopt a new zoning district. Chairman Manfredi assured Mrs. Teed that was not the case. Supervisor Salvadore acknowledged that the agenda listing was incorrect and was obviously a typographical error.

Mrs. Teed asked if the law firm Weber Gallagher was present at the August 1, 2008 Executive Session meeting. Supervisor McIlhinney advised that they were not. Mrs. Teed asked if a meeting had yet been scheduled with Weber Gallagher. Supervisor

McIlhinney is sure that a meeting will be held with them in the future, however he wished to make it clear that his request at the July 28th meeting to suspend future billing from Weber Gallagher was simply until a meeting was held to determine the status of the lawsuit in question. Mrs. Teed commented that since tax dollars are being used to pay for services provided by Weber Gallagher, all members of the Board of Supervisors must agree and approve of those services.

2. Mr. Wally Rosenthal of Rosie Lane suggested that a portion of the CDBG funding be used to enclose some of the swales along the sides of roadways in order to provide safe walking paths for pedestrians.

H. PRESS AND MEDIA TIME: A conference was held to answer questions of those reporters present.

I. ADJOURNMENT: Upon motion by Supervisor Salvadore, seconded by Supervisor McIlhinney, and carried unanimously, the regularly scheduled meeting of the Hilltown Township Board of Supervisors was adjourned at 9:40PM.

Respectfully submitted,



Lynda Seimes

Administrative Assistant to the Township Manager

(*These minutes were transcribed from notes and recordings, and should not be considered official until approved by the Board of Supervisors at a public meeting).