

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, November 28, 2005
7:30PM**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairman George C. Egly, Jr. at 7:30PM and opened with the Pledge of Allegiance.

Also present were: Richard J. Manfredi, Vice-Chairman
Barbara A. Salvadore, Supervisor
Kenneth B. Bennington, Township Manager
Francis X. Grabowski, Township Solicitor
C. Robert Wynn, Township Engineer
Lynda S. Seimes, Township Secretary

Chairman Egly announced that the Board met in Executive Session on November 23, 2005 to discuss personnel issues; and also met prior to this meeting in Executive Session to discuss legal issues and possible land acquisition.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY: None.

B. APPROVAL OF MINUTES – Action on the minutes of the September 26, 2005 Supervisor’s Meeting – Motion was made by Supervisor Manfredi, and seconded by Chairman Egly to approve the minutes of the September 26, 2005 Supervisor’s Meeting, as written. Supervisor Salvadore abstained from the vote since she was not a member of the Board of Supervisors at that time. There was no public comment.

Action on the minutes of the October 10, 2005 Worksession Meeting – Motion was made by Supervisor Manfredi and seconded by Chairman Egly to approve the minutes of the October 10, 2005 Worksession Meeting, as written. Supervisor Salvadore abstained from the vote since she was not a member of the Board of Supervisors at that time. There was no public comment.

Action on the minutes of the October 24, 2005 Supervisor’s Meeting – Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to approve the minutes of the October 24, 2005 Supervisor’s Meeting, as written. There was no public comment.

Action on the minutes of the November 14, 2005 Worksession Meeting – Motion was made by Supervisor Salvadore and seconded by Chairman Egly, to approve the minutes of the November 14, 2005 Worksession Meeting, as written. Supervisor Manfredi abstained from the vote since he was not present at that meeting. There was no public comment.

C. CONFIRMED APPOINTMENTS:

1. Mr. Joe Pileggi – Request to Construct Pole Barn – Mr. Scott Semisch, the applicant's legal counsel, was in attendance on behalf of Mr. Joseph Pileggi regarding his approximately 22 acre site located on Rt. 113 near its intersection with Rt. 313. Wawa is located on one side of the site, two deed restricted 10-acre parcels are located to the rear of the site, and a 14-acre deed restricted parcel is located on opposite side of the property. The parcel is currently being used as a nursery. Mr. Pileggi is proposing the construction of a 5,000 sq. ft. pole barn on top of the existing impervious surface, which Mr. Semisch feels is the same as construction a barn on top of a parking lot. Mr. Semisch explained that Mr. Pileggi does not intend to increase or accelerate the stormwater runoff on his property, nor does he intend to change the flow of the stormwater.

Mr. Semisch noted that on December 14, 1998, the Township and his client entered into an Agreement, which stated that Mr. Pileggi could move the nursery business from its previous location Rt. 113 to this property on Rt. 313. Further, Paragraph 7 states that Mr. Pileggi is permitted to erect a pole barn and accessory building without formal land development. Mr. Pileggi then applied for a permit to erect a 5,000 sq. ft. pole barn and a single-family dwelling. According to Mr. Semisch, the Township agreed to allow the construction of the pole barn, after first erecting the single-family dwelling, which Mr. Pileggi did. Then, the Township supposedly told Mr. Pileggi that an Occupancy Permit for the nursery use was required, which he applied for and received. Throughout this whole process, Mr. Pileggi was told by then-Township Manager, Bruce Horrocks, that he would be permitted to construct the pole barn. In 2003, the Stormwater Management Ordinance was adopted by the Township, requirements of which would not permit Mr. Pileggi to construct the abovementioned pole barn. Correspondence from Solicitor Grabowski to Mr. Semisch dated June 8, 2004 states that it is the Township's position that the Stormwater Management Ordinance is a stand-alone Ordinance that requires compliance whether or not there is a land development of a parcel. Solicitor Grabowski's correspondence further notes that the stone area on which Mr. Pileggi wishes to construct the pole barn may very well violate the Township's impervious surface coverage requirements at the time.

With respect to the Stormwater Management Ordinance, Mr. Semisch advised that Section 134-7 permits the Supervisors to modify the requirements of that Act based upon "peculiar conditions" pertaining to the property in question, as long as it complies with the intent of the Act. Mr. Semisch will provide the Board with a copy of correspondence from Richard Knudsen, a certified engineer, stating that the location where the applicant is proposing to construct the pole barn is currently in impervious surface. Because of the existing impervious surface, Mr. Knudsen's correspondence states that constructing a pole barn in that area will not accelerate or change the stormwater runoff. Therefore, in effect, Mr. Semisch stated that the stormwater runoff would remain the same after the

barn is constructed, as it exists today. Mr. Semisch referred to the Second Class Township Code, Title 53, Section 67704, which permits the Board to enact Stormwater Management Ordinances, and to require persons conducting earthmoving activities to obtain permission from the Board of Supervisors to do so. Mr. Semisch advised that Mr. Pileggi has no intention of moving any earth, and that he is simply proposing to purchase a barn structure and place that structure on the existing impervious surface. The correspondence submitted by Mr. Knudsen states that the construction of the proposed barn would not accelerate the stormwater runoff. Mr. Semisch further referred to Title 32, Section 16.11 of the Stormwater Management Ordinance, which also states that major land development must be conducted in a manner that is consistent with the Watershed Plan. He could not find a definition for "major land development" in the Code, however Mr. Semisch does not believe that the construction of an accessory building such as that proposed by Mr. Pileggi, would be considered a major land development. For all of these reasons, Mr. Semisch is requesting that the Board uphold the spirit, the intent, and the language of the 1998 Agreement.

Motion was made by Supervisor Manfredi to authorize the Township Solicitor and Township Engineer, if necessary, to craft a preamble brief with a historical outline of this issue, including the parties to this Agreement dated December 14, 1998, and any and all related documents necessary to address the Pileggi Land Development Plan, which may or not require stormwater management with respect to the proposed pole barn, and to address the actual use of the property and zoning issues relative to the site, and for the Township Solicitor to report back to the Board on this issue, preferably prior to the December 27th meeting. Motion was seconded by Supervisor Salvadore and carried unanimously. There was no public comment.

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

1. Miller Sewage Maintenance Agreement – Solicitor Grabowski presented the Miller Sewage Maintenance Agreement for the two lot subdivision located at the intersection of Schultz Road and Keystone Drive, with both lots containing A/B Sewage Systems, for which agreements are required.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to authorize acceptance and approval of the Miller Sewage System Maintenance Agreements (TMP #15-22-22-1). There was no public comment.

2. Calvary Church Land Development – Solicitor Grabowski presented Subdivision/Land Development and Financial Security Agreements for the Calvary Church Land Development, by which Uninvest issued an Evergreen Letter of Credit in the amount of \$525,338.98.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to authorize acceptance and approval of the Calvary Church Subdivision/Land Development and Financial Security Agreements, as noted above. There was no public comment.

3. Brittany Estates – Solicitor Grabowski presented Resolution #2005-39, accepting the Deed of Dedication of Kristine Lane and Resolution #2005-40, accepting Public Purpose for Kristine Lane.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-39, accepting the Deed of Dedication of Kristine Lane for the Brittany Estates Subdivision, as noted above.** There was no public comment.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-40, accepting the Public Purpose for Kristine Lane, as noted above.** There was no public comment.

4. Guidi/McIlhinney Subdivision – Solicitor Grabowski presented the Subdivision/Land Development and Financial Security Agreements for the Guidi/McIlhinney Subdivision (aka: Rickert Farms) located on Broad Street. The escrow account with Commerce Bank is in the amount of \$570,521.90.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept the Guidi/McIlhinney Subdivision Financial Security and Subdivision/Land Development Agreements, as noted above. There was no public comment.

This project also provides for the retention of one of the lots, which contains the existing home of the current property owner. Therefore, Solicitor Grabowski presented two Easement Agreement Resolutions for the Board's consideration.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-41, accepting road frontage easements for the current property owner of the Guidi/McIlhinney Subdivision; and to adopt Resolution #2005-42, accepting road frontage easements for the current property owner of the Guidi/McIlhinney Subdivision, as noted above.** There was no public comment.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-43, enacting a Street Light**

Assessment upon the future property owners of the Guidi/McIlhinney Subdivision.
There was no public comment.

5. Supervisor Manfredi asked the status of the Smith Tract Planning Modules. Solicitor Grabowski advised that this item is listed as Item #3 on page two of the Solicitor's Status Report, and is a matter involving potential litigation, which should be discussed in Executive Session.

***7:55PM – At the request of Supervisor Manfredi, Chairman Egly adjourned the regularly scheduled November 28, 2005 Board of Supervisors meeting in order to enter into Executive Session to discuss the potential litigation concerning the Smith Tract Planning Modules.**

***8:05PM – Chairman Egly reconvened the regularly scheduled November 28, 2005 Board of Supervisors meeting.**

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

1. Scott Lot Line Adjustment (Final) – Ms. Cheryleen Strothers, the applicant's legal counsel, was in attendance to present the plan. This lot line adjustment subdivision located with frontage on Rt. 113 and Blooming Glen Road was unanimously recommended for preliminary and final plan approval subject to completion of Items #1, #2, and #3 of the engineering review correspondence dated November 11, 2005, and with recommendation for approval of all waivers requested as contained within correspondence dated August 26, 2005.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to grant conditional preliminary/final plan approval to the Scott Lot Line Adjustment Plan, pending completion of all outstanding items as noted in Mr. Wynn's engineering review dated November 11, 2005. There was no public comment.

2. Gitlin/Johnson Subdivision (Preliminary) – Mr. William Benner, the applicant's legal counsel, Mr. Scott Guidos and Mr. Scott Mills, the applicant's engineers, and Mr. Dave Anderson of Toll Brothers, were in attendance to present the plan. The preliminary plan for 29 residential building lots was recommended for approval (5-1 vote with Mr. Kulesza opposed) subject to completion of all outstanding items as contained within the November 9, 2005 engineering review with the following additional items noted:

- Waivers requested by the applicant as noted under Item #3.A through F of the engineering review correspondence were recommended for

approval by the Planning Commission based upon a vote of 5-1 with Mr. Kulesza opposed.

- Letter was received from the Hilltown Township Water and Sewer Authority dated November 17, 2005, which recommends consideration of public sewer extension to serve the lots. The Planning Commission acknowledged the correspondence and noted that the issue of whether sewage facilities should be revised to public sanitary sewer is a consideration during review of the Planning Modules currently being forwarded to various outside agencies for their recommendation. Preliminary approval of this plan should specifically include the requirement that sanitary sewer facilities for the site must be in accordance with Act 537 Planning Module approval granted by the Township and PADEP.

Supervisor Manfredi asked if this site is indeed located within the Township's Act 537 Plan to be served by public sewer. Mr. Wynn explained that the HTWSA correspondence indicates that the site is located "within the area for public sewer service," which is in fact true, however it means that it is located within the jurisdictional area of the Hilltown Authority for public sewer, even though that area is not proposed for public sewer at this time. Discussion took place.

- The stormwater basin area is proposed to be owned by a separate entity (other than individual lot owners) and contained on a separate parcel from the lots created as part of the subdivision. As recommended under Item #4 of the engineering review, the Township should consider potential issues relative to the parcel configuration as a landlocked area with access to the internal roadway via stormwater management easement across Lots #16 and #17 in favor of the Township. Of additional concern is the future ownership of this parcel by a Homeowner's Association or other organization, maintenance of the facility, and payment of real estate taxes. Alternatively, Mr. Wynn recommended consideration be given to extending the rear lot lines so that the basin is owned by the individual lot owners and contained within an easement area with responsibility for maintaining the easement being a Homeowner's Association.

Mr. Benner advised that Planning Modules have been submitted and are presently working their way through the system. However, the plan before the Board this evening proposes 24 on-site sewage disposal systems, which the applicant believes is consistent with the current Act 537 Plan. Mr. Benner noted that the applicant is trying to be as compliant as possible with municipal wishes, and if there is a desire by the Township to serve this site with public sewer, they would be willing to consider it at a future time.

Mr. Benner wished to make it clear that the plan before the Board this evening does not propose public sewer for this project.

Supervisor Salvadore asked Mr. Benner's response with respect to the concern regarding ownership and maintenance of the stormwater management basin. Mr. Benner advised that the plan before the Board this evening shows 24 building lots, along with a separate parcel identified as "Parcel A" which is the actual parcel that will contain the stormwater management basin. He believes the ownership of the stormwater management basin should be a matter to be determined at the Supervisor's discretion. Mr. Benner explained that the basin would be managed by a Homeowner's Association. One of the items as highlighted in Mr. Wynn's review letter is the eventual review of a Homeowner's Association document by the Township Solicitor. Mr. Benner noted that some municipalities prefer that the stormwater management basin be located on a separate lot that is not considered a building lot; while other municipalities prefer that the basin be made part of a building lot or lots. By making it part of several lots, he believes there is a risk for unnecessary confusion because the legal description of the lots will be subject to the stormwater management easement. In this instance, Mr. Benner suggested that the stormwater basin be on a separate lot and be owned by the Homeowner's Association. Mr. Wynn's concern is with what could happen in the future if the Homeowner's Association does not pay the taxes on that lot containing the basin. Mr. Benner conferred with Mr. Anderson, who noted the Homeowner's Association as created by Toll Brothers would designate a professional manager who would oversee that site on a regular basis.

Solicitor Grabowski advised that the Board could grant preliminary plan approval with the conditions as Mr. Wynn has recommended, with the issue of the stormwater basin ownership to be addressed between now and the final plan approval stage. Discussion took place.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to grant conditional preliminary plan approval to the Gitlin/Johnson Subdivision, pending completion of all outstanding items as noted in the November 9, 2005 engineering review including the waivers as recommended for approval by the Planning Commission, and with the issue of ownership of the stormwater management basin be resolved at final plan approval. There was no public comment.

3. Kirk Tract Subdivision - Mr. Robb Gundlach, the applicant's legal counsel, and Mr. Scott Mills and Mr. Scott Guidos, the applicant's engineers, were in attendance to discuss preliminary approval of the 29-lot subdivision with frontage on both Skunkhollow Road and Upper Stump Road. The Planning Commission deadlocked (3-3 vote with Mr. Rush, Mr. McIlhinney and Mr. Beer voting in favor; and Mrs. Hermany, Mr. Kulesza and Mr. Bradley opposed). The major issue regarding the plan

appears to be the layout of the street system and in particular, the cul-de-sac street. The site layout is consistent with Concept Plan "A," which was preferred by the Supervisors pursuant to discussion at their October 25, 2005 meeting. It was noted that the Planning Commission preferred Concept Plan "B." The engineering review for the current plan is dated November 14, 2005 and includes the Van Cleef Engineering correspondence dated October 31, 2005 requesting waivers of various SALDO requirements. By a unanimous vote, the Planning Commission recommended approval of waiver Items #1 through #7 and #9 of the Van Cleef Engineering correspondence. The Planning Commission split 3-3, with Mrs. Hermany, Mr. Kulesza, and Mr. Bradley opposed to waiver request Item #8 regarding the cul-de-sac street.

Mr. Guidos presented a power point demonstration showing the proposed buffering along Upper Stump Road, which will be put in place to buffer the dwellings located across the street as well as vehicular traffic along Upper Stump Road from some of the reverse frontage lots and the corner lots that would take access off the proposed through road. Undulating berms are provided throughout the buffer area, ranging in height from 4ft. to 6ft. to help provide a screening element, along with the evergreen trees that would consist of spruce, pine, and deciduous and flowering trees to provide accent features with seasonal changes and variety throughout the entire year. Discussion took place.

Supervisor Manfredi asked if plans that did not include a cul-de-sac street had ever been presented to the Planning Commission. Mr. Gundlach replied that plans without a cul-de-sac were presented the Planning Commission, including one plan contemplating a cul-de-sac coming straight down, or a plan contemplating all of the homes fronting onto Upper Stump Road. He noted that all three plans, including the one before the Board this evening, resulted in the same number of lots. Discussion took place.

The stormwater management basins will be located on private property as "controlled facilities" and will be maintained by a Homeowner's Association. A Planned Community Declaration will be drafted to identify the controlled facilities and an upfront capital contribution by every homeowner will fund the maintenance account for the stormwater basins. All these documents will be submitted to the Township Solicitor for review and approval.

Public Comment:

1. Mrs. Jean Bolger of Rt. 152 asked for confirmation that the stormwater management basins will be located on private property. Mr. Gundlach replied that the basins will be on lots shared with dwellings, and for the purpose of determining the permitted lot size, the entire area of the basin had been deducted from the lots. Mrs. Bolger questioned the liability involved with basins located on private property. Mr. Gundlach explained that the Homeowner's Association would maintain a commercial

liability insurance policy, and in addition, each resident would have their own homeowner's insurance, both of which would adequately address any liability issues. Mrs. Bolger questioned the possibility of basin overflow, and the potential to flood the dwelling on the shared lot. Mr. Guidos explained that the design of the dwelling itself would be above the elevations of any water that could possibly exist within the basin. Further, if the structure were to fail, there is an emergency spillway designed in the basin itself that would allow the water to drain out before it could get to the elevations of an individual dwelling. Discussion took place. Personally, Mrs. Bolger feels that anyone who purchases a lot with a stormwater basin on it would be foolish to do so.

2. Mrs. Sandy Williamson of Mill Road asked where the public water line connection will come from. Mr. Gundlach explained that the extension of the waterline will come from the Toll Brothers property off Limekiln Pike, through the rear of that site which is an open space parcel along and just inside the H & K property line, and then out to and along Skunkhollow Road to this development.

3. Mrs. Nancy Boice of Mill Road asked if the proposed cul-de-sac has been offered to the Township for public dedication, to which Mr. Gundlach responded that it would. He noted that the cul-de-sac street was designed with a green space in the center of the cul-de-sac bulb, which will be maintained by the Homeowner's Association. Mrs. Boice is opposed to the Township owning and maintaining cul-de-sac streets, which she believes are nothing more than glorified driveways.

There was no additional public comment.

It is Mr. Wynn's understanding that all of the septic systems for this development will be sandmounds, with the exception of a replacement A/B System to serve the existing dwelling. Mr. Gundlach confirmed that statement.

Supervisor Salvadore asked Mr. Wynn's opinion of the proposed cul-de-sac street. Mr. Wynn actually preferred the plan with lots fronting on Upper Stump Road, however that proposal was not acceptable to the residents of that area. Discussion took place. Supervisor Salvadore asked the size of the green area located in the center of the cul-de-sac bulb. Mr. Guidos replied that it is a 20 ft. radius. Mr. Wynn noted that the Subdivision/Land Development Ordinance contains regulations and a design detail for green space in cul-de-sac bulbs.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to grant conditional preliminary plan approval to the Kirk Tract Subdivision, pending completion of all outstanding items as noted in the November 14, 2005 engineering review. There was no public comment.

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

1. Orchard Hill Subdivision Dedication Request – A request for dedication of public improvements has been received for Sections 4 and 5 of the Orchard Hill Subdivision. Inspection of the site indicates that not all punchlist items have yet been completed, and Mr. Wynn recommended that the applicant be advised that the request for dedication be denied at this time.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to deny the developer's request for dedication of Sections 4 and 5 of the Orchard Hill Subdivision, pending completion of all remaining items on the punchlist, as noted above. There was no public comment.

2. Village at Dorchester Dedication Request – A request for dedication of required improvements has been received from the applicant. Mr. Wynn recommended that the request for dedication be denied as not all items required pursuant to the approved plan have been accomplished.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to deny the developer's request for dedication of the Village at Dorchester Subdivision, pending completion of all items as required pursuant to the approved plan. There was no public comment.

3. Car Sense Maintenance Period Completion – The applicant successfully completed the maintenance period for required improvements at the Car Sense Land Development. Mr. Wynn recommended acceptance of completion of the maintenance period and release of the remaining escrow funds.

Mr. Bennington advised that the Zoning Officer and Mr. Wynn's office sent correspondence to the applicant regarding the issue of parking lot lighting, which had been mentioned by a resident at a previous meeting. The response from Car Sense is as follows "Thank you for your inquiry about our parking lot lighting. The exterior lighting system was submitted as part of the original plan review before Township officials. The approved plan was later discussed upon completion and checked thoroughly by Dave Taylor to confirm lighting levels and periods of operation. A discussion was also held with Greg Lippincott, Township Manager at the time, wherein we agreed to lower lighting levels even outside those parameters after-hours as well as making certain that all lights are pointed downward. Over the past two years, we have not received any complaints or concerns from the Township, customers, or neighbors." Mrs. Sandy Williamson, the resident who previously brought this matter to the Board's attention, stated that the lighting from Car Sense is very noticeable late at night, particularly under the right weather conditions.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept completion of the maintenance period and authorize release of the remaining escrow funds for the Car Sense Land Development. There was no public comment.

4. Equestrian Court – Status – Mr. Wynn provided a brief status report regarding completion of improvements at the Equestrian Court Subdivision located on Mill Road, many of which are still outstanding.

5. Brittany Estates – Dedication Request – A request for dedication of required improvements has been received from the developer. Improvements have been completed and Mr. Wynn recommended acceptance of dedication and commencement of the 18-month maintenance period.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept dedication and authorize commencement of the 18-month maintenance period for the Brittany Estates Subdivision, as noted above. There was no public comment.

6. Summer Lea – Heritage – Dedication Request – A request for dedication of required improvements has been received from the developer. This portion of the Summer Lea Subdivision includes the apartment complex only (no public streets are included). Inspection of the site indicates that all requirements of the approved plan have been accomplished. Mr. Wynn recommended acceptance of completion, commencement of the 18-month maintenance period, and reduction of the escrow funds to the required 15% during the maintenance period.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to accept completion of improvements, commencement of the 18-month maintenance period, and reduction of the escrow funds to the required 15% during the maintenance period of the Heritage Building Group portion of the Summer Lea Subdivision, which includes only the apartment complex with no public streets included, as noted above. There was no public comment.

7. Fedele Subdivision – Extension – The Fedele Tract, which is located on Fairhill School Road, is included on the agenda for the Board's consideration of possible default due to non-compliance with the timeframe for completion as required pursuant to the Development/Financial Security Agreement executed between Mr. Fedele and Mr. Forino and the Township dated November 17, 2003. The agreements require improvements to be completed by November 17, 2005, guaranteed via an Evergreen Letter of Credit, which is renewed each November 30, 2005.

Mr. George Ditter, the applicant's legal counsel was in attendance, along with Mr. Forino and Mr. Fedele, to discuss the issue.

Mr. Wynn made the following recommendations found within correspondence dated November 23, 2005, relative to a meeting held at the Township Building between Mr. Ditter, representing Mr. Michael Fedele and Mr. Alexander Forino, and Mr. Wynn. Items for discussion at this meeting included inspection of the site, review of the file and Development/Financial Security Agreement; and discussions with Township staff. With respect to specific requests by Mr. Ditter, Mr. Wynn offered the following:

- Item #1 Within correspondence dated November 15, 2005 to Solicitor Grabowski, Mr. Ditter requests that improvements including the shared driveway on Lots #2 and #3 and stormwater management facilities to serve the shared driveway be deferred at this time, as the applicants retain ownership and have no immediate intention to build or convey these properties for at least two years. Mr. Wynn did not object to the deferral of installation of the shared driveway and stormwater management facilities provided there is a declaration of covenant recorded at the Bucks County Courthouse preventing the transfer of either parcel until a development agreement is executed with the Township to guarantee completion of the shared driveway and common improvements. Additionally, if approved by the Board, since the shared driveway is not to be installed, Mr. Wynn believes the driveway entrance and pipe should be removed along the frontage of the site on Fairhill School Road to prevent unlawful access to the property utilizing the uncompleted driveway.
- Item #2 Correspondence dated November 15, 2005 from Mr. Ditter to Solicitor Grabowski requests an extension of one year to complete improvements as required by the Development/Financial Security Agreements. After review of the status of the site, Mr. Wynn does not recommend an extension of the agreement for improvements required along the frontage of the site including driveway entrances, right-of-way restoration, pedestrian path construction, and other public improvements. Mr. Wynn has provided the Board with the latest site punchlist dated August 9, 2005 which was forwarded to the applicants with cover correspondence dated August 18, 2005. Most of the punchlist items remain incomplete. Mr. Wynn recommended that the Township find the developer in default, make demands of the Letter of Credit, and secure the contractor or contractors necessary, when weather permits, to complete improvements. Additionally, while most of the work is weather sensitive and cannot be performed until spring weather conditions permit, there are some immediate issues that need resolution, including diversion of stormwater

runoff to the swale along Fairhill School Road from the incomplete pedestrian path as well as general cleanup of the site frontage. This activity may be accomplished in the near future.

- Item #3 Correspondence dated November 15, 2005 addressed to Mr. Wynn requested deferral of a portion of the walking trail along the frontage of Lot #8 in light of the possible development of the Bennett Tract by Orleans Builders and coordinating the trail at this location with potential trails/pedestrian paths within the Bennett parcel. In the event the Township finds the developer in default regarding the pedestrian path construction, Mr. Wynn notes that this may be considered by the Township in the spring of 2006, at which time the pedestrian path will be completed.

Mr. Ditter provided a brief history of this 8-lot subdivision. His clients currently own five of the lots, with two being developed for Mr. Forino and Mr. Fedele's own personal residences. Mr. Ditter advised that the record plan contained a note stating that the improvements with respect to the lots would be accomplished by the owners thereof. The applicants admit that there is a considerable amount of required work to Lots #1 and #2 with respect to the shared driveway that Mr. Fedele and Mr. Forino would like to defer on the basis that they have no plans to do anything with those lots in the foreseeable future.

During the course of the November 10th meeting, Mr. Ditter advised that discussion took place concerning the lots that are currently under construction with respect to driveway placement and other issues. At that meeting, the applicant's agreed that their engineers would be conducting survey work and would ultimately provide a proposal for completion of that work. It is Mr. Ditter's understanding that the survey is complete and a plan is expected to be forthcoming with respect to modification of stormwater management. The applicant's are agreeable to items #1 and #3 of Mr. Wynn's November 23, 2005 correspondence, however they are very concerned with the idea of default on the Letter of Credit.

Concerning the pedestrian path, Mr. Fedele and Mr. Forino have been making preparations to do the paving this week. The applicants are requesting that the Development and Financial Security Agreement be extended for an additional period of time. He notes that language in the Agreement provides for a reasonable extension of time beyond the initial time period, and is not certain that the Township has any particular risk in this since the Letter of Credit is evergreen that can be renewed from year to year. Mr. Wynn wished to clarify that the temperature is too low for paving, and advised that the cutoff for installation of wearing course material is the end of October. Further, Mr. Wynn noted that this site is not ready for paving, which would require quite a bit of preparation work. When Mr. Wynn last inspected the site, he was led to believe

that it was in better condition than it was, and it is his opinion that paving the pedestrian path cannot be accomplished until next spring.

Mr. Tim Lechner of Fairhill School Road owns Lot #4 in this subdivision and is very concerned about the remaining public improvements that have not yet been accomplished. Mr. Lechner's lot is serviced by a shared driveway that has not yet been completed, and has become a safety issue. With respect to the pedestrian path, Mr. Lechner advised that the path itself is a mess, with downed trees, debris, and trash. He noted that the applicants have twice knocked down trees on the Lechner property while attempting to install the walking path during the time the Lechner home was under construction. Further, there is an issue of stormwater runoff that Mr. Lechner would like to have rectified as soon as possible. He advised that water flows down the proposed pedestrian path, crosses his driveway and ponds in the front of his dwelling. Mr. Lechner noted that the applicant's have not installed silt fence or the proper protection required to prevent runoff.

Mr. Mike Fedele of 260 Fairhill School Road disagreed, and explained that the pedestrian path was cut in and stone was put in place to stabilize the path. Until construction was complete on his own lot, Mr. Fedele stated that he intended to use the pedestrian path as the access to his site, as did Mr. Lechner during the construction of his home. Therefore, the applicants waited until construction on both dwellings was complete to actually pave the pedestrian path. With respect to the trash and debris Mr. Lechner referred to, Mr. Fedele has no knowledge. Mr. Fedele stated that when Mr. Lechner purchased his lot, he piled a great deal of trash and debris from the entire site on the location of the proposed pedestrian path. Mr. Fedele commented that the pedestrian path was repaired on three separate occasions, and can provide photographs of Mr. Lechner crossing the path with heavy construction vehicles while working on his home, which continues to disturb and erode the stoned pedestrian path. Mr. Fedele advised that Mr. Lechner continues to cross the pedestrian path while doing work on his yard.

Lengthy discussion took place as to the timeframe during which the 31 items on the August 9, 2005 Preliminary Punchlist for the Fedele Subdivision could be accomplished.

***9:25PM – At the request of Supervisor Manfredi, Chairman Egly adjourned the regularly scheduled November 28, 2005 Board of Supervisors meeting in order to enter into Executive Session to discuss the legal issue of the Fedele Tract Subdivision.**

***9:34PM – Chairman Egly reconvened the regularly scheduled November 28, 2005 meeting of the Board of Supervisors.**

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvatore, and carried unanimously to allow Mr. Fedele and Mr. Forino one week to submit a recommended time line for completion of all outstanding items as noted on the August 9, 2005 Punchlist for the Fedele Subdivision located on Fairhill School Road to Mr. Wynn's satisfaction; and with the caveat that if Mr. Wynn determines that the accomplishment of the outstanding items are not being completed to the Township's satisfaction, the matter of default of the developer will once again be considered by the Board of Supervisors. There was no public comment.

Solicitor Grabowski explained that the Financial Security Agreement provides for the irrevocable Letter of Credit that has been established, and calls for the Letter of Credit to be increased on an annual basis by 10%, which has not been done thus far in this project. Solicitor Grabowski believes that the lender should be notified that the Letter of Credit should be increased by the 10% over the course of this project to provide for additional security to the Township in the event a future default does occur.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvatore, and carried unanimously to authorize Solicitor Grabowski to notify the holder of the irrevocable Letter of Credit for the Fedele Subdivision that said Letter of Credit must be increased by 10% annually, according to the existing Financial Security Agreement. There was no public comment.

8. Highview Road Subdivision – Dedication Request – The developer has requested dedication of required improvements, which includes construction of a drainage swale and stormwater management facilities at this minor subdivision located on Highview Road. Improvements are complete and Mr. Wynn recommended commencement of the 18-month maintenance period and reduction of the required escrow to 15%.

Motion was made by Supervisor Salvatore, seconded by Supervisor Manfredi, and carried unanimously to authorize the commencement of the 18-month maintenance period and reduction of the required escrow to 15% for the Highview Road Subdivision, as noted above. There was no public comment.

G. NEW BUSINESS:

1. A required escrow has been received for a second sketch plan/staff meeting for B & D Custom Homes, Inc. to consider the development of the Santos property on Mill Road.

2. According to the Bucks County Planning Commission, Mr. Bennington explained that local municipalities must comply with the Disaster Mitigation Act of 2000.

The BCPC will be preparing a County-wide plan that will meet FEMA requirements for both Bucks County and municipalities to be eligible for funding and technical assistance. Therefore, Mr. Bennington presented a Resolution for the Bucks County Hazard Mitigation Plan for the Board's consideration.

Motion was made by Supervisor Manfredi, seconded by Supervisor Salvadore, and carried unanimously to **adopt Resolution #2005-44, the Bucks County Hazard Mitigation Plan, as specified above.** There was no public comment.

3. Mr. Bennington requested authorization to advertise a special meeting on Thursday, December 8, 2005 at 7:30PM for the Board of Supervisors to interview candidates for various 2006 board and commission vacancies, with the caveat that only those positions for which more than one individual applied would be interviewed, including the Planning Commission, Emergency Management Coordinator, Zoning Hearing Board, and Open Space Committee.

Motion was made by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously to authorize advertisement of a special meeting on December 8, 2005 at 7:30PM for the Supervisors to interview candidates for various 2006 board and commission vacancies. There was no public comment.

4. The Township has received notification that the final DCNR grant check in the amount of \$16,250.00 for construction of the pedestrian/bike path behind the Pleasant Meadows Subdivision will be sent in the near future.

H. MYLARS FOR SIGNATURE:

1. Baker Tract (Re-sign)

I. PUBLIC COMMENT:

1. On behalf of the residents in her Pleasant Meadows neighborhood, Mrs. Kathy Newman of 402 Brookside Drive thanked the Board of Supervisors, Mr. Wynn, Solicitor Grabowski, and Mr. Buzby for their assistance with resolving an on-going stormwater drainage issue she and her neighbors had been experiencing for quite some time. Mrs. Newman stated that she now has "her castle without the moat."

J. SUPERVISOR'S COMMENTS: None.

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

L. ADJOURNMENT: Upon motion by Supervisor Salvadore, seconded by Supervisor Manfredi, and carried unanimously, the November 28, 2005 Hilltown Township Board of Supervisors meeting was adjourned at 9:45PM.

Respectfully submitted,



Lynda Seimes
Township Secretary