HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, April 25, 2005
7:30PM

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairperson Kenneth B. Bennington at 7:36PM and opened with the Pledge of Allegiance.

Also present were: George C. Egly, Jr. – Vice-Chairperson
Richard J. Manfredi – Supervisor
Francis X. Grabowski – Township Solicitor
C. Robert Wynn – Township Engineer
Christopher Engelhart – Chief of Police
Lynda S. Seimes – Township Secretary

Chairperson Bennington announced the Board met in Executive Session prior to this meeting in order to discuss personnel and the legal matter of Hilltown Chase.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY:

1. Mr. Lawrence Otter of 43 Paige Trail in the Hilltown Chase Subdivision was in attendance to express his dissatisfaction with the lack of progress by the developer, the Elliott Building Group. He respectfully suggested that if this developer has proposed any other projects in Hilltown Township, they should be put "on hold" until they complete improvements in the Hilltown Chase Subdivision. Further, Mr. Otter feels that the Township should take the appropriate action to default this developer for breach of the obligations they have with Hilltown Township.

2. Mrs. Denise Hermany, member of the Hilltown Planning Commission, advised that since the Planning Commission meeting of last week, she, Mr. Rush, and Mr. Beer have had conversations about some of the plans that were reviewed and discussed. Mrs. Hermany was present to provide the Board with the recommendations that have come out of those conversations. With respect to the Groff Subdivision, Mrs. Hermany advised that the applicant agreed to complete full improvements along the frontage of the site, however the Planning Commission is suggesting that perhaps the sidewalk should be installed along Williams Way so that the new sidewalk will be tied into that existing sidewalk. Further, the Planning Commission was told that the Solicitor did not believe the Groff Subdivision was an extension of a non-conforming use because it was vacant land. However, upon review of the Zoning Ordinance, Mrs. Hermany referred to Section 160-61.C, which states "Where two or more adjacent lots, one or more of which is non-conforming are owned by the same owner (in this case, it is not) and the ownership of the lots is concurrent, such lots shall be combined to create conforming lots or to lessen the non-conformity, if it is not possible to create all conforming lots." In this case, Mrs. Hermany commented that the non-conformity is increasing with the lot line

change. In addition, she referred to Section 160-64, which states "No structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another non-conforming use, only under the following conditions....." Mrs. Hermany also noted that the 90 degree bends in the lot lines, as well as the lot depth to width ratio must also be waived for this lot line adjustment to move forward.

With respect to the Calvary Church Land Development, the Planning Commission strongly feels that it would be a very good, neighborly thing for the Church to initiate dialogue with the neighboring property owner in an effort to have road improvements along the frontage of the neighboring property installed in that section between the Calvary Church property and the First Service Bank property. While the Planning Commission recognizes that the Township cannot force the property owner to complete these roadway improvements, including widening, they strongly believe that the continuation of these road improvements would be in the best interests of the entire Township. The Church believes their congregation is somewhat stabilized at this time, however Mrs. Hermany anticipates that there will certainly be an expansion in the future. Supervisor Manfredi commented that the Township has no authority to request that the Church's neighboring property owner continue with the road improvements, which Mrs. Hermany understands. Further, the Planning Commission also suggested that the Supervisors reference Mr. Heinrich's letter concerning the PennDot review, and whether or not a second left hand turn lane should be installed at the east Rt. 113 entrance to the site.

B. APPROVAL OF MINUTES – Action on the minutes of the March 28, 2005 Board of Supervisor's Meeting –

Public Comment:

Mr. Joe Marino of Redwing Road was offended by a comment made on page 7, Item #6, paragraph 2 at the March 28th meeting, which states "Mrs. Kachline commented that Hilltown Township is rural residential, which she would like to see remain, and noted that if someone wants public water and sewer, they should move to an area such as Philadelphia, Warminster, or Montgomeryville."

Mr. Marino read the following prepared statement into the record:

"How dare any elected official or politically appointed official, who is supposed to represent all the residents of Hilltown Township have the unmitigated gall to tell us, who have paid much more in taxes than said resident and provided many acres of so-called rural residential area free of charge for many years, tell us that if we don't like infringement on our individual rights, we should move to another area such as Philadelphia, Warminster, Montgomeryville, etc. I offer to any resident of Hilltown

Township who wants to infringe on my individual rights two options – 1) You have the absolute right to purchase as much rural Hilltown as you would like or can afford; 2) If you don't like that option these are the counties that will provide you with all the rural you can afford including Forrest County with 12 people per square mile, Sullivan and Cameron Counties with 15 people per square mile, and Potter County with 17 people per square mile. If this is too rural for you, I will assist you in any way I can with a county-by-county list of Pennsylvania that will help you decide how much rural you can afford. I promise you that I will defend your right to buy land or move anywhere you want. So please don't infringe on my earned rights to be free of your personal agendas that you don't want to pay for."

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the minutes of the March 28, 2005 Supervisor's Meeting, as written. There was no further public comment.

C. APPROVAL OF CURRENT BILLING- Chairperson Bennington presented the Bills List dated April 26, 2005, with General Fund payments in the amount of $59,410.10, Fire Fund payments in the amount of $22,973.75, Park and Recreation Fund payments in the amount of $1,719.59, and State Highway Aid Fund payments in $7,330.74; for a grand total of all payments in the amount of $91,434.18.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the Bills List dated April 26, 2005. There was no public comment.

D. CONFIRMED APPOINTMENTS:

1. Mrs. Alice Kachline, Tax Collector – Notifying new homeowner's of developer's delay in providing tax bills – In past years, Mrs. Kachline has had difficulty with different mortgage companies not paying tax bills in the proper fashion or in a timely manner. She sent out tax bills on March 1, 2005, spending a great deal of time researching information to insure that the tax bills are sent to the proper person. Mrs. Kachline also contacted various developers asking them to provide her with current taxing information if they have sold properties, since she is still receiving deed transfers 4 to 6 months behind from Bucks County. Last week, she received correspondence from Ryan Homes advising that they just now forwarded tax bills to the new property owners. When Mrs. Kachline called Ryan Homes to determine why there was such a delay, she was first told that the company's main office recently moved and did not receive the bills from Mrs. Kachline in a timely manner due to the mail forwarding process. Then Mrs. Kachline was told that forwarding tax bills to the new homeowners was not Ryan Homes' priority. Luckily, several of the homeowners in the Orchard Hill development (particularly Crabapple Circle) had contacted Mrs. Kachline, and she was able to assist

them. Most of these properties went to settlement back in November of 2004, however Mrs. Kachline never received notification of the sale from Ryan Homes until March 30, 2005. Mrs. Kachline hoped that the press in attendance would run a story in the local newspapers so that new residents who have not yet received their tax bills could be advised that they have until Friday, April 29, 2005 to pay their tax bills in discount. If the Township had established its own deed recordation system as she asked the Board to consider several times in the past, Mrs. Kachline noted that there would not have been a problem. Discussion took place.

Supervisor Manfredi recalls that the Township actually advertised for and held a Public Hearing for a proposed Ordinance to establish a deed recordation system here at the Township. However, he advised that the Township did not adopt that Ordinance because at the time, the Board of Supervisors was told by the Bucks County Recorder of Deeds office that they were installing a new computer system, which was to be operational by June of last year, and would negate the need for the Ordinance. Therefore, Supervisor Manfredi suggested that the Township Secretary send correspondence to the Bucks County Recorder of Deeds office to determine the status of the new computer system and to ask why it is still taking 4 to 6 months to provide deed transfers to the municipality. Mrs. Kachline spoke to Mr. Charlie Martin, who responded that the computer system is ready to go, but had no idea when it would be operational.

Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to direct the Township Secretary to draft correspondence to the Bucks County Recorder of Deeds office to seek status of their new computer system and to determine why it is still taking 4 to 6 months to provide deed transfers to the municipality. There was no public comment.

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

1. Solicitor Grabowski presented the Rumer/Berger Sanitary Sewage Maintenance Agreement for a Peat Filter Option #1 system, for consideration. This is for a new system on a lot located at 408 Twinbrook Road.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the Rumer/Berger Sanitary Sewage Maintenance Agreement as noted above. There was no public comment.

2. Solicitor Grabowski presented an agreement for a similar Sanitary Sewage Maintenance Agreement for a Drip Irrigation Micro-Mound System, which is a repair system for a property located on Rt. 113 and owned by Mr. and Mrs. Bishop.

Discussion took place concerning these various new types of sewage systems that were recently approved by DEP. Several months ago, Supervisor Manfredi advised that DEP changed their verification protocols for what is required to have a system permitted. There is one lab where all experimental systems go for certification and testing, though DEP is trying to establish and certify a second lab, such as Del Val College. It has been reported to Supervisor Manfredi, in his role at DEP, that they are considering completely revamping the Act 537 in the near future.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the Bishop Sanitary Sewage Maintenance Agreement for a Drip Irrigation Micro-Mound System, as noted above. There was no public comment.

Supervisor Manfredi suggested that Solicitor Grabowski provide the Board of Supervisors with a list of all of the outstanding Sewage Maintenance Agreements for alternate on-site and experimental systems by name in his monthly report.

3. Rubel/Wright Lot Line Adjustment and Minor Subdivision – Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-18 accepting the Road Frontage Easement Agreement for the Rubel/Wright Lot Line Adjustment and Minor Subdivision.** There was no public comment.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to accept Sewage Maintenance Agreements for A/B Soil Systems for Lots #2 and #3 of the Rubel/Wright Lot Line Adjustment and Minor Subdivision; and to accept a Drip Irrigation Micro-Mound Repair System for the Rubel/Wright Lot Line Adjustment and Minor Subdivision. There was no public comment.

4. Solicitor Grabowski advised that Mr. Wynn provided the Board with a final draft copy of the proposed Subdivision Ordinance amendments approximately two months ago. He has prepared a summary of this rather lengthy document (for advertising purposes) which will be advertised for Public Hearing and consideration at the May 23, 2005 Supervisor's Meeting. Mr. Wynn noted that the Hilltown Planning Commission and the Bucks County Planning Commission both provided a favorable recommendation for adoption, including any revisions that had been discussed.

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

1. Engler Tract Subdivision (Minor) – Ms. Sharon Dotts, the applicant's engineer, was in attendance to present the plan. This two-lot subdivision located on Blue School Road was unanimously recommended for preliminary/final plan approval by the Planning Commission, subject to completion of all outstanding items as contained within

the April 5, 2005 engineering review and approval of all waivers requested by the applicant as contained within Items 2.A through J of the engineering review.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to grant preliminary/final plan approval to the Engler Tract Subdivision, pending completion of all outstanding items as noted in the April 5, 2005 engineering review, and approving all waivers as requested by the applicant as contained within Items 2.A through J of the engineering review. There was no public comment.

2. Groff Lot Line Adjustment – Mr. Ed Vollberg, the applicant's engineer, and Mr. Eric Williams of Quiet Acres, Inc., were in attendance to present the plan. The lot line adjustment subdivision located on Orchard Road, which will convey 3.99 acres to be combined in common deed with adjoining lands of Quiet Acres, Inc. was unanimously recommended for preliminary/final plan approval by the Planning Commission, subject to completion of outstanding items as contained within the January 24, 2005 engineering review, with the following noted:

- The residential accessory structure located within the rear yard setback must be relocated prior to plan recordation.

- Waiver requested of cartway widening, overlay, drainage improvements, and curb as requested by the applicant was unanimously recommended for denial. The Planning Commission recommends the plan be required to be revised and include installation of improvements along the frontage of the site in accordance with the SALDO.

Mr. Wynn noted that there is a proposed subdivision located across the street from the site that is intended to have curb, widening, and sidewalk. Further up the street, on the opposite side, is the Tall Oaks Subdivision with existing curb, widening, and sidewalk; and adjoining the property at the Quiet Acres Mobile Home Park, there is widening and curb, with no sidewalk along Orchard Road, though there is existing sidewalk along Williams Way, internal to the Quiet Acres site.

- Waiver request from requirements for installation of sidewalk was withdrawn by Carl Weiner, Esq. representing the applicant. Mr. Weiner advised the Planning Commission that the plan would be revised to comply with sidewalk requirements of the Ordinance.

- Waiver requested from field survey and monumentation were unanimously recommended for approval.

- Item #4 of the engineering review questioning whether Lot #2 consolidation with the adjoining parcel increases the extent of the non-conformity of the resulting parcel has been determined by Mr. Taylor, Zoning Officer, to not be applicable.

Solicitor Grabowski noted that Mr. Wynn did mention this issue during a telephone conversation, and both agreed that it was a zoning issue, and as such, it should be reviewed by the Zoning Officer, as noted above.

As a result of discussions with the Planning Commission, Mr. Vollberg advised that the applicant has decided to install all the improvements, including sidewalks, along the frontage of the Groff property. Since no development is presently proposed along Williams Way, Mr. Williams noted that he is not willing to install improvements along the frontage of the site to Williams Way. However, should future development of the rear parcel take place, Mr. Williams would be willing to consider improvements at that time.

Motion was made by Supervisor Manfredi, and seconded by Supervisor Egly, to grant conditional preliminary/final plan approval to the Groff Lot Line Adjustment, pending completion of all outstanding items as noted in Mr. Wynn's engineering review dated January 24, 2005. Discussion took place.

Public Comment:

1. Mrs. Denise Hermany of the Planning Commission commented that the Township has compromised on waivers, and again asked the applicant to consider agreeing to the request to install that additional 86 ft. of sidewalk to the existing Williams Way sidewalk. Mr. Williams explained that the applicant is not increasing any density by this lot line adjustment plan, and it is not proposed to be developed at this time. At such time as the applicant proposes to increase density, Mr. Williams would be willing to do any improvements that make sense for the good of the Township and to address any safety issues along Orchard Road.

Motion passed unanimously.

3. Patel Subdivision II (Minor) - Mr. Manshi Patel, the applicant, was in attendance to present the plan. This two lot subdivision located on Mill Road (the site of the recent Zoning District change from Planned Commercial to Rural Residential) was unanimously recommended for preliminary/final plan approval by the Planning Commission subject to completion of outstanding items as contained within the March 28, 2005 engineering review, with recommendation of approval of all waivers requested

by the applicant as noted in Items #1.A through D of the engineering review, along with acceptance of a fee in-lieu-of installation of sidewalk and a fee in-lieu-of stormwater management.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to grant conditional preliminary/final plan approval to the Patel Subdivision II, pending completion of all outstanding items as contained in the March 28, 2005 engineering review, along with a fee in-lieu-of installation of sidewalks and a fee in-lieu-of stormwater management. There was no public comment.

4. Oskanian Tract Subdivision – Mr. Wynn received a copy of correspondence dated April 11, 2005 from the applicant's engineer to the Township regarding improvements along Hilltown Pike and Rt. 152. Specifically, PennDot requires the roadway widening to be 19 ft. versus the 17 ft. as approved by the Township. Any revision to the plan is subject to approval by the Supervisors, which is why Mr. Wynn has brought this matter to the Board's attention. Mr. Jeffrey Madden, the applicant's design engineer, was in attendance. The Board was agreeable to this plan revision.

5. Kratz Subdivision (Minor) – Mr. Ed Wild and Ms. Cheryleen Strothers were in attendance, along with Mr. Kratz, to present the plan. The two lot subdivision located at the cul-de-sac turnaround area of Rosewood Drive within the CR-1 Zoning District is proposed to be subdivided into two 3+ acre lots, which will be deed restricted from further subdivision pursuant to the Zoning Hearing Board Decision dated January 20, 2005. The Planning Commission unanimously recommended preliminary/final plan approval subject to completion of outstanding items as contained in the April 6, 2005 engineering review with the following noted:

- Item #2 discusses a requirement for a Class A buffer yard. The Planning Commission advised that the wooded nature of the boundary of the site essentially duplicates the requirements for a Class A buffer yard and no additional plantings are necessary.

- Waivers requested by the applicant as noted within Items #3.A and B of the engineering review were unanimously recommended for approval in consideration of the proposed deed restriction.

- The applicant's attorney was in attendance at the Planning Commission meeting and advised that he would request relief from a fee in-lieu-of recreation land from the Board of Supervisors in consideration of the deed restriction.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to grant conditional preliminary/final plan approval to the Kratz Subdivision, pending completion of all outstanding items as contained in the April 6, 2005 engineering review, and granting a waiver of the fee in-lieu-of the required recreational land in consideration of the applicant's offer of deed restriction of both lots. There was no public comment.

6. Calvary Church Land Development (Preliminary) – Mr. John Van Luvanee, the applicant's legal counsel, and Ms. Cheryleen Strothers, the applicant's engineer, along with several members of Calvary Church, were in attendance to present the plan. The Calvary Church Land Development was unanimously recommended for preliminary approval by the Planning Commission conditional upon the applicant installing street improvements including cartway widening, curb, and storm drainage from the Church property along Rt. 113 to the First Service Bank at the intersection of Rt. 113/Bethelehem Pike, unless the improvements are considered unnecessary by Mr. Heinrich, Township Traffic Engineer. There was significant discussion over this portion of the motion as the Planning Commission feels Calvary Church should improve Rt. 113 to a third lane within this area. Mr. John Van Luvanee, the applicant's legal counsel, indicated at the meeting that Calvary Church would not agree to the installation of off-site improvements. Additionally, the Planning Commission's recommendation is conditioned upon completion of all outstanding items as contained within the March 10, 2005 engineering review, with recommendation for approval of all waivers requested by the applicant pursuant to Items #2.A, B, C, and D, and resolution of the Township Fire Marshal's concerns with respect to Phase I of the project. Mr. Wynn's engineering review dated March 10, 2005, and Mr. Heinrich's review dated April 4, 2005 were discussed.

Ms. Strothers provided a brief overview of Phase I of the proposed seven phases for the Calvary Church Land Development, from now through approximately 2017. The area denoted in pale blue on the plan is the proposed Phase I construction, which includes a building addition and a potential link between the building and a multi-purpose building, which is proposed in Phase II, which will house the existing Sunday school classes and other classrooms where an overcrowding situation exists at present. In addition, the applicant is proposing to reconstruct the detention basin so it is large enough to handle the total build out. Since this will cause removal of some existing parking, the Church is proposing a new parking area to service the church and the counseling center as well. The Church is also proposing removal of a driveway that currently accesses the counseling center, which will force all of the traffic to come in through the two main driveways along Rt. 113 and the driveway along Bethlehem Pike.

Lengthy discussion took place regarding the Planning Commission's main concern with the lack of off-site improvements to the neighboring property along Rt. 113 between the

Calvary Church site and the First Service Bank Site. Mr. Van Luvanee advised that the applicant does not feel that it has any responsibility to widen Rt. 113 to address conditions that involve peak hour traffic, rather than just Sunday morning traffic. He advised that the Church acknowledges that it impacts the traffic patterns significantly on Sundays, and to a lesser extent on other days, but not during peak hours. Mr. Van Luvanee does not dispute that the entire community and the general public would most likely benefit from the additional road widening, however he does not believe that it the Church's responsibility, as they are already making a significant contribution to the traffic patterns in that area. Further, Mr. Van Luvanee reminded the Board that the Ordinance does not require that the Church provide these additional off-site roadway improvements. Supervisor Manfredi noted that the Township cannot require any off-site improvements, however the Planning Commission asked if the Church would consider discussing those off-site improvements with the neighboring property owner to see if they would understand the benefits of doing this work now versus in the future. After discussion with the Church committee members who were present, Mr. Van Luvanee advised that the Church agreed to broach the subject with the neighboring property owner and report back to the Board of Supervisors. Chairperson Bennington reminded those in attendance that PennDot might still require the off-site improvements to be done at this time.

Mr. Van Luvanee asked the Board to consider extending their approval through all seven phases of land development for up to 12 years, with the Church agreeing to comply with all building codes and/or fire codes or PennDot requirements in effect at the time of construction. Solicitor Grabowski noted that the Municipalities Planning Code allows for a five-year protection for an approved plan so that the Township cannot necessarily change the Zoning Ordinance to the detriment of that approved plan. It is Supervisor Manfredi's concern that if the Township grants the request of this applicant, they would be setting a precedent for each land development that came before the Board. Mr. Van Luvanee commented that each land development should be considered on its own merit and reviewed on a case-by-case basis. Discussion took place. Chairperson Bennington suggested that the Board grant five year vesting, with the applicant to come back to the Township to request an extension prior to the expiration date. Supervisors Egly and Manfredi agreed.

With respect to the multi-purpose addition being proposed, Supervisor Manfredi asked what uses would be taking place in that building. Ms. Strothers replied that the multi-purpose building is for the gymnasium, stage, and auditorium, etc. which would be used during off-peak hours.

Motion was made by Supervisor Egly and seconded by Supervisor Manfredi to grant conditional preliminary plan approval to the Calvary Church Land Development Plan

(Phase I) with the conditions as specified in the March 10, 2005 engineering review, and those set forth by the Planning Commission. Discussion took place. No vote was taken.

Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to amend the previous motion to grant conditional preliminary plan approval to the Calvary Church Land Development Plan (Phase I), pending completion of all outstanding items as noted in the March 10, 2005 engineering review, and excluding the issue of off-site improvements for the neighboring property owner which will be considered at a future time. There was no public comment.

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

1. Hilltown Chase Subdivision – Mr. Wynn advised that numerous items still remain incomplete on the Hilltown Chase punchlist, as referenced in correspondence from Mr. Wynn dated April 20, 2005. He noted that the developer is not responsive to certified mail and appears unwilling or unable to complete improvements. Mr. Wynn recommended legal action be taken to permit Township completion of improvements required by the subdivision plan and Development/Financial Security Agreement.

Mr. David Shafkowitz, legal counsel for the Elliott Building Group, was present this evening to discuss another item on the agenda, and was disappointed that he was not notified that the Hilltown Chase matter was being considered this evening. Nevertheless, he understands that there was a mad rush last fall to complete all of the public improvements by late October, though the developer was not successful. Despite representation that no work has been done at the site, it was Mr. Shafkowitz's understanding that work to complete the public improvements continued through the past few months. He admitted that the on-site contractor may have made some silly mistakes by moving too quickly and not paying attention to detail. Mr. Shafkowitz stated that the developer has every desire and intent to complete the dedication work for this site. Mr. Shafkowitz advised that the gentleman that Mr. Wynn has been sending these certified letters to, Mr. Joe Sotack, is no longer employed by the Elliott Building Group.

Solicitor Grabowski presented a copy of a certified letter than Mr. Wynn sent to Mr. Sotack dated April 7, 2005, which was also copied to Mr. Shafkowitz and Mr. Bill Rainer by certified mail, both of whom are still employed by the Elliott Building Group. This certified letter clearly states "This correspondence again requests that you contact this office with your anticipated schedule to complete all improvements required pursuant to the approved subdivision plan. This matter will be included on the April 25, 2005 Board of Supervisors agenda to review your progress and anticipated schedule. This office does not recommend the Board of Supervisors permit further delays to completion of this subdivision in which all lots are now occupied." Therefore, Solicitor Grabowski noted that the April 7th letter certainly gave ample notice that this matter would be on the \

agenda at this time. Mr. Shafkowitz believes that the Board of Supervisors taking action this evening would be entirely premature, and feels that it would make very little sense for the Township to take on the completion of this project. Solicitor Grabowski reminded Mr. Shafkowitz that the completion date for all improvements within this subdivision was April 22, 2003, which was two years ago. Mr. Wynn commented that the Township received correspondence from the developer last summer containing an outline of the work that was scheduled to be accomplished by the end of September, 2004. Some of the work that was scheduled to be done in July of 2004 has not yet been started. Further, the Township still has not received certification as to the pins and monuments being installed. Lengthy discussion took place.

Public Comment:

1. Mr. Drew Revak of 47 Paige Trail commented that listening to Mr. Shafkowitz this evening is an insult to the residents and to the Board of Supervisors and Mr. Wynn; and stated that the completion of improvements in this subdivision has gone way beyond a reasonable amount of time. Mr. Revak settled on his home on September 9, 2003, and received his one-year punch list on September 4, 2004 with 47 items on the list. To date, only three of those 47 items have been addressed. He stated that the entrance to the Hilltown Chase development is an eyesore, and noted that he did not spend a half million dollars to drive through gravel and dirt to reach his home.

2. Mr. John Hause of 17 Paige Trail had his driveway paved late last fall. Last week, with the warm weather, he noticed that his tires are sinking into the driveway because it was not paved correctly. He also pointed out the swale between Lots #21 and #22 is a total disgrace, noting that all of the dirt is washing away.

3. Mr. Joe Leo of 23 Paige Trail presented photographs of the swale that was created behind his property, which was constructed before the pins were installed. As a result, a pin for the rear of his lot can now be found in the bottom of the swale under 6 inches of mud. During the last storm, the pond overflowed and there is a sinkhole in the rear of the pond that will cause the pond to disappear if not addressed.

4. Mr. Robert Knauff of 22 Paige Trail has been present at several meetings in the past where these same issues have been discussed. He believes that the residents of the Hilltown Chase Subdivision, and the Township have been more than patient with the developer. Mr. Knauff urged the Board to take decisive action and move towards default. Based on the Elliott Building Group's performance with the Hilltown Chase Subdivision, Mr. Knauff suggested that the Township look long and hard at the developer's plans for any future development in Hilltown. It appears to Mr. Knauff that other developers seem to manage completion of public improvements without too much difficulty in a timely fashion. However, there have been nothing but excuses from this developer and Mr.

Knauff would like to see the Board take action against the Elliott Building Group this evening.

5. Mr. Barry Greb of 38 Paige Trail stated that communication with the Elliott Building Group is a near impossibility. Without communication, Mr. Greb noted that there is no control of the job site, which means there are errors, mistakes, and problems, which is what the residents of Hilltown Chase have been experiencing since they moved into their homes. Mr. Greb does not believe that granting another extension will make a difference. He advised that the developer was paving resident's driveways this past week while the resident's vehicles were still in their driveways.

6. Mr. Mike Allelunas of 27 Beverly Road has had his lot re-graded two separate times, however there are still significant problems. Discussion took place.

7. Ms. Rosalie Jacobs of 26 Paige Trail has a detention basin in the rear of her lot. The developer installed a fence and drained the detention basin, and now the view from her home now consists of garbage and debris.

***9:43PM – Chairperson Bennington recessed the regularly scheduled April 25, 2005 Supervisor's Meeting in order to enter into Executive Session to discuss the default issue with Solicitor Grabowski.**

***9:55PM – Chairperson Bennington reconvened the regularly scheduled April 25, 2005 Supervisor's Meeting.**

Solicitor Grabowski explained the process involved with defaulting the developer. In April of 2001, Hilltown Chase Associates entered into a Subdivision Agreement with the Township by which they agreed to complete all of the public improvements by a certain date in 2003. In addition, the developer also entered into a three party Financial Security Agreement with Hilltown Township and Traveler's Casualty and Surety Company of America. At that time, Traveler's issued a bond in an amount to cover all of the public improvements on January 21, 2002 guaranteeing that all of the public improvements would occur. Under the terms of the Development Agreement, the Township can unilaterally declare that the developer is in default because they did not complete the improvements as they were obligated to. The Township, by taking a default action, puts itself into the place of being the contractor to complete any outstanding public improvements according to the approved plans. Since the Township has limited physical resources, it will contract or bid out to have those outstanding services accomplished as soon as humanly possible, which would be under the direction of Mr. Wynn as the Township Engineer. If the Board takes default action this evening, Solicitor Grabowski would be charged with contacting Traveler's Casualty and Surety Company to default the bond in order to provide for the funding necessary to complete the work.

Mr. Wynn explained that the public improvements include such items as curb, roadway, stormsewer, the approved landscaping plan, grading relating to individual lots for purposes of stormwater management, stormwater management basins and associated fencing, street lights, and grading along Telegraph Road with respect to the future walking path. He noted that public improvements do not include such items as internal sidewalks to dwellings, siding, anything interior to the home, landscaping that the developer might have done on individual lots that was not part of the approved landscaping plan, etc. If default is declared, Mr. Wynn or someone from his office will meet with each individual property owner to review any items that pertain to the individual lots, and any other improvements that are required by the plan.

Public Comment (Continued)

8. Mr. Joe Muredda of 11 Paige Trail asked if there is enough money in the bond to cover completion of all public improvements. Mr. Grabowski replied that there is. If that is the case, Mr. Muredda believes the Township should take action. He is still experiencing grading issues that were never been properly addressed in the past two years.

9. Mr. John Castle of 18 Paige Trail wondered if there are any liens imposed on the open space in the development. Mr. Castle personally won a court settlement against the Elliott Building Group, and actually placed a lien on the open space area so that he would be able to collect the money that Elliott owed him for the repairs that are still needed in his home. Mr. Wynn commented that the open space Mr. Castle is referring to is owned by the Township, and he is not sure how a lien could be placed against Township property. Discussion took place.

10. Mr. Keith Schwarz of 13 Paige Trail asked if the driveway paving is considered public improvements. Mr. Wynn is not certain if the driveway paving is something that is included as public improvements, it will depend if they are listed as part of the public improvements on the approved plan, which he and Solicitor Grabowski will determine.

As much as Mr. Schwarz hates the thought of taking the developer into default and having the Township use its resources, he would certainly appreciate having the Elliott Building Group out of his life. He believes that the Township should have a law in place that if a developer is in default of a contract, they are forbidden to develop in the Township for a certain period of time. Solicitor Grabowski advised that the law does not permit that.

11. Mr. Mike Allelunas of 27 Beverly Road stated that communication has been a real problem with the Elliott Building Group. Therefore, he suggested that the Hilltown Chase Homeowner's Association take an active role in post-default decisions if they were

to occur. Chairperson Bennington directed Mr. Allelunas to provide the name and phone number of the Homeowner's Association to the Township Secretary.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to begin default proceedings against the Elliott Building Group with respect to lack of completion of the outstanding public improvements for the Hilltown Chase Subdivision as noted in correspondence from C. Robert Wynn dated December 10, 2004. There was no public comment.

2. Myers Tract Subdivision –Planning Modules for the Myers Tract Subdivision for 49 lots with in-ground systems (48 lots with elevated sandmounds and one lot with an at grade bed with peat filter pre-treatment and ultra violet disinfection) were executed by the Planning Commission and presented to the Board this evening for adoption of a Resolution to forward the Modules to DEP for review.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-19, accepting Planning Modules for 49 in-ground systems for the Myers Tract Subdivision to be submitted to DEP.** There was no public comment.

3. Smith Tract Subdivision – Planning Modules for the Smith Tract Subdivision were presented for the Board's consideration. The plan proposes construction of a sewage treatment plant with discharge to a tributary, which is proposed to be owned and operated by the Hilltown Authority. Pursuant to DEP requirements, this plan was advertised for a 30-day public comment period. The Township received one comment from the Perkasie Borough Authority, who objected to the treatment plant for several reasons, some of which were addressed in subsequent correspondence from Fox Rothschild dated April 19, 2005 regarding the construction, ownership, and future maintenance of a treatment plant. Additionally, the PBA objected to the treatment plant being placed within what they call the service area of PWTA. However, Mr. Wynn noted that PWTA is actually not a servicing Authority in the Township, pursuant to the public sewer service area map within Hilltown's Act 537 Plan.

Mr. Joel Bolstein of Fox Rothschild, who represents the Elliott Building Group, stated that he believes the PBA comments have been addressed, and is seeking action by the Township this evening. Mr. Wynn has provided the Board with a draft correspondence in the event they wish to approve a Resolution to forward these Planning Modules to DEP, which also includes the correspondence from Mr. Bolstein, a few minor comments of the incomplete items on the Planning Modules, and correspondence from Van Cleef Engineering dated February 10, 2005, where Mr. Wynn believes the Township should take issue with a comment in the February 10th letter, which is not included elsewhere in the Modules stating that if Hilltown Authority decides not to accept dedication, the

Homeowner's Association would own and maintain the wastewater treatment facility. The correspondence Mr. Wynn is recommending that the Board forward to DEP notes that the Township's adopted Act 537 Plan does not permit a community system to be owned and operated by a Homeowner's Association. Mr. Wynn also thought it necessary that the Township address Mr. Bolstein's correspondence wherein he states that the Township did not act within a 60-day period pursuant to the Municipalities Sewage Facilities Act and therefore, since the developer did not agree to extend the 60-day period, the applicant intends to exercise its right by submitting a complete application to DEP without Township action. Mr. Wynn noted that the letter from Mr. Bolstein indicates that the Planning Modules are dated February 24, 2005, but later in the letter indicates that they were submitted on February 10, 2004. In fact, Mr. Wynn advised that the actual Modules were date stamped by the Township on February 28, 2005, which means the 60-day period does not expire until April 29, 2005. Discussion took place.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-20, accepting the Smith Tract Planning Modules for submission to DEP.** There was no public comment.

4. Patrick Malin Subdivision Planning Modules – Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to **adopt Resolution #2005-21 accepting Planning Modules for the Patrick Malin Subdivision to be forwarded to DEP.** There was no public comment.

5. Mr. Wynn presented a Resolution for Traffic Signals to relocate the flashing signals on Callowhill Road for the Seylar Elementary School. When the driveway was relocated and improvements were made, the flashing signals also had to be relocated to coordinate with the new driveway location and for safety reasons.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to **adopt Resolution #2005-22, authorizing the relocation of the flashing traffic signals on Callowhill Road for the Seylar Elementary School.** There was no public comment.

6. Supervisor Manfredi recalls that Mr. Wynn forwarded correspondence to the Board dated April 14, 2005 regarding the Act 537 Plan Update, referencing correspondence received February 18, 2005 relative to the Plan that was supposed to be done October 10, 2000. Mr. Wynn explained that the October 10, 2000 date is the approval date of the Act 537 Plan, which was approved subject to conditions. Those conditions include further planning and completion of certain items, which were listed in the letter. Supervisor Manfredi asked what steps are being taken to meet those conditions. Mr. Wynn replied that none have been taken, which is why DEP is requesting that the Township take the steps necessary to address those items of

conditional approval of the Act 537 Plan. This would include the correction/repair or the extension of public sewer to replace failing septic systems in several locations in the Township. Mr. Wynn noted that the letter from DEP is rather timely because it reminds the Board that some of the sites of failing systems are located very close to proposed developments, such as the Gitlin/Johnson Tract and the Guttman Tract, which are located very close to three failing septic systems. In the Act 537 Plan, the future correction was to connect these three homes to public sewers. Mr. Wynn stated that one of the areas of failing systems, Cherry Road, was the area that was the subject of a study done by the Hilltown Authority, however at that time it was not cost effective to extend public sewer to the sites. He noted, however, that perhaps the idea should be revisited.

Supervisor Manfredi asked who would be providing a proposal as to how to address these issues, along with a timeframe as to when it would be completed. Mr. Wynn will meet with DEP to determine what is required and the time frames involved, and then will report back to the Board of Supervisors.

H. MYLARS FOR SIGNATURE: None.

I. PUBLIC COMMENT:

1. In an attempt to resolve the issues of the Hilltown Chase default in a timely manner, Mr. Dave Shafkowitz asked if Mr. Wynn has prepared a cost estimate of the remaining public improvements, and also asked if the Supervisors would be willing to allow him to meet with Solicitor Grabowski to discuss the default issues involved. Discussion took place. Supervisor Manfredi reminded Mr. Shafkowitz that the Board will not change their motion with respect to the default, and asked if he is willing to cover the costs involved with meeting with Solicitor Grabowski and/or Mr. Wynn. Mr. Shafkowitz offered to pay for the costs involved with meeting with Mr. Wynn and Solicitor Grabowski. The Board was agreeable to the request, as long as Mr. Shafkowitz understands that the motion to default on the Hilltown Chase Subdivision will not be rescinded.

2. Mr. Lawrence Owen of 506 Rt. 313 referred to the March 25, 2005 Supervisors meeting where discussion took place regarding the on-lot sewage systems at the Cinnabar Farms Subdivision. He provided information from the Bucks County Health Department with respect to failing septic systems in Hilltown Township and the County as a whole. Mr. Owen wished to clear up some myths about failing systems in the Township. He advised that East Rockhill Township Supervisor David Nyman recently cited a statistic from the Bucks County Health Department claiming that septic system pollution is the primary cause of groundwater contamination in the area. Mr. Owen stated for the record that the Bucks County Department of Health has advised that there are no studies and no statistics available supporting Mr. Nyman's statement.

Further, another topic that surfaced that evening and continues to resurface in the Township, is that not only are on-site systems failing, but that they are the number one cause of groundwater contamination. Mr. Owen believes that this is untrue and unfounded, and presented an itemized repair permit list of on-lot system replacements in Hilltown Township for the years 1999 through 2003. Each system as repaired in Hilltown requires a repair permit from the Department of Health. What Mr. Owen found upon review of the data is that neither the individual repair categories nor the total reported repairs show a statistically significant increasing trend of failing systems in the Hilltown.

3. Mrs. Alice Kachline of Mill Road announced that the Civic Association will be sponsoring Candidates Night on Tuesday, April 26, 2005 at 7:30PM here at the Township Building for the positions of Tax Collectors, Supervisors, and School Board.

J. SUPERVISOR'S COMMENTS:

1. Chairperson Bennington announced that he would not be in attendance at the May 9, 2005 Supervisor's Worksession meeting since he would be on vacation with his family.

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

L. ADJOURNMENT: Upon motion by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to adjourn the April 25, 2005 Board of Supervisor's Meeting at 10:26PM.

Respectfully submitted,

Lynda Seimes

Lynda Seimes
Township Secretary