

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, April 26, 2004
7:30PM**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairperson Kenneth B. Bennington at 7:30PM and opened with the Pledge of Allegiance.

Also present were: George C. Egly, Vice-Chairperson
Richard J. Manfredi, Supervisor
Gregory J. Lippincott, Township Manager
Francis X. Grabowski, Township Solicitor
C. Robert Wynn, Township Engineer
Lorraine E. Leslie, Township Treasurer

Chairperson Bennington announced the Board met in Executive Session following the April 12, 2004 to discuss personnel, and then minus Supervisor Manfredi to discuss the legal issue of H & K Quarry. The Board also met in Executive Session prior to this meeting in order to discuss personnel and the legal issue of H & K Quarry, minus Supervisor Manfredi.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY: None.

B. APPROVAL OF CURRENT BILLING: Chairperson Bennington presented the Bills List dated April 27, 2004, with General Fund payments in the amount of \$98,826.00, Fire Fund payments in the amount of \$25,115.00, and State Highway Aid Fund payments in the amount of \$5,873.67; for a grand total of all payments in the amount of \$129,814.67.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the Bills List dated April 27, 2004. There was no public comment.

C. CONFIRMED APPOINTMENTS:

1. Mr. Drew Wagner – Waiver Request for 1259 Rt. 113 – Mr. Wagner cancelled his appointment on the agenda.

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

1. Solicitor Grabowski presented the Sewage Maintenance Agreements for the Fedele Subdivision, a 9-lot subdivision located on Fairhill School Road. Two of the lots were previously addressed by Sanitary Sewage Maintenance Agreements several months ago. Since that time, DEP has determined that in any case of marginal soil

conditions, Maintenance Agreements would be required whether it be an A/B System or a conventional sandmound system.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve the Sewage Maintenance Agreements for Lots #1 through #7 of the Fedele Subdivision, as specified above. There was no public comment.

2. A copy of a court order in the case of Jackson and Marilyn Teed versus Hilltown Township was received today. This case dealt with the open record redaction issue. There was a motion for reconsideration filed by the Teeds for leave to file an amended complaint in the matter, however it was denied by the Judge by court order dated April 22, 2004.

3. Solicitor Grabowski is seeking authorization for a series of Ordinance amendments and Ordinances, which include the Impervious Surface Ordinance Amendment, the Lighting Ordinance, the Uniform Construction Code as prepared by the Penna. Department of Labor and Industry to provide for the statewide adoption of the Building Code, and the Codification Ordinance as prepared by General Code Publishers. Mr. Wynn noted that the Bucks County Planning Commission provided no comment on the proposed Codification Ordinance.

Mr. Wynn provided a summary of the Planning Commission's review of the proposed Impervious Surface Ordinance and the Lighting Ordinance. He noted that the Planning Commission amended their previous motion for approval of the "Farmstead" Zoning Ordinance Amendment to add a recommendation to deed restrict the farmstead lot from further subdivision. The motion was approved 5:1 with Mr. Beatrice opposed. Discussion took place. Solicitor Grabowski has not yet had the opportunity to review this proposed revision.

Public Comment:

1. Mr. Jack McIlhinney representing the Hilltown Landowner's Association, stated that the Planning Commission previously discussed the issue of impervious surface, where they injected the 3-acre minimum, which in his opinion, is self-defeating. If a deed restriction is added, Mr. McIlhinney noted that the property owner would be giving up the right to subdivide as well as giving up the 3-acres when it may not be necessary.

With regard to the Lighting Ordinance, Mr. Wynn advised the Planning Commission recommended that it be modified so that it is clear that it refers to the PC-1, PC-2, LI and HI Zoning Districts. Mr. Wynn suggested that the Ordinance be modified to reflect that it affects commercial and industrial uses, not those specific zoning districts. It is Mr. Wynn's understanding that the Lighting Ordinance would not apply to a residential

dwelling, however if it is drafted to be effective within a commercial and industrial districts only, there are some residential dwellings in those zoning districts that would be impacted. Likewise, there may be a commercial or industrial buildings presently located within the residential district that would then be exempt from the lighting requirements, merely because of the zoning district it is located in. Discussion took place.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to authorize the Township Solicitor to make the changes as recommended by the Township Engineer this evening and to then advertise the proposed Lighting Ordinance for consideration and possible adoption at a Public Hearing before the Board of Supervisors. There was no public comment.

A lengthy discussion took place concerning the Impervious Surface Ordinance amendment, with the new recommendation from the Planning Commission for additional language. Mr. Wynn and Solicitor Grabowski will review that additional language before seeking authorization for advertisement of the amendment.

Discussion took place concerning the Statewide Building Code Ordinance.

Public Comment:

1. Mr. Jack McIlhinney of Broad Street believes that Mr. Taylor, the Code Enforcement Officer, was to have reported back to the Supervisors as to whether this Ordinance would be financially beneficial the Township. Supervisor Manfredi stated that Mr. Taylor did provide that report at a previous meeting.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to authorize advertisement of the Statewide Building Code Ordinance for consideration and possible adoption at a Public Hearing before the Board of Supervisors. There was no further public comment.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to authorize the advertisement of the Codification Ordinance for consideration and possible adoption at a Public Hearing before the Board of Supervisors. There was no public comment.

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

1. First Service Bank (Final) – The applicant's legal counsel, Mr. Eric Tobin, attended the last Planning Commission meeting to present the First Service Bank Land Development Plan. The Planning Commission unanimously recommended conditional final plan approval subject to completion of items contained in Mr. Wynn's March 31,

2004 engineering review. Additionally, the action is subject to resolution of an on-site curb issue with Telford Borough Authority. Specifically, TBA indicated to the applicant that concrete curb required within the parking area may not be installed within their waterline easement. Previously, the parking design included a proposed decorative wall between the proposed parking and Rt. 113 to shield traffic on Rt. 113 from headlights of cars within the parking area. TBA indicated that they would not permit a wall within their easement and the plan was revised to change proposed parking area grades and eliminate the decorative wall. Most recently, Mr. Tobin has advised that the TBA Manager has also indicated that the concrete curb required within the parking area will not be permitted. Mr. Wynn recommended that the Board of Supervisors authorize a staff meeting with TBA to discuss their concerns and possible resolution. Mr. Eric Tobin, the applicant's legal counsel, and Mr. Bob Todor, the applicant's engineer, were in attendance to present the plan. Mr. Todor advised that there was a meeting with TBA, McMahon Associates, and his office to discuss the issue. TBA considers the curb that runs within the easement to be a continuous obstruction such as a curb that would run parallel to a pipe, as opposed to a local obstruction, where a curb would cross a pipe. Discussion took place.

The Supervisors authorized a meeting with representatives of TBA, Mr. Wynn, Solicitor Grabowski, Mr. Lippincott, and the applicant to discuss the easement issue as noted above.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to grant conditional final plan approval subject to completion of items contained in Mr. Wynn's March 31, 2004 engineering review, and satisfactory resolution of the on-site curb issue with Telford Borough Authority. There was no public comment.

2. Baker Subdivision – Frontage Improvements – Although no action was taken on the preliminary plan for this 6-lot subdivision, the Planning Commission approved a motion (4:1 with Mr. Rush opposed) to require cartway widening, storm drainage, and curb improvements along the frontage of the site on Rt. 113 with a waiver of sidewalk. At the meeting, the applicant offered a capital contribution to the Township for a waiver of cartway widening, curb, and sidewalk with installation of shoulder and drainage improvements. Prior to revising the preliminary plan, the applicant seeks direction from the Board of Supervisors on whether to make the full frontage improvements on Rt. 113 or to prepare a plan identifying the shoulder and drainage improvements with anticipation of a capital contribution to the Township for the cost savings to the applicant.

Mr. Ed Wild, the applicant's legal counsel, and Mr. Sam Constanza, the applicant's engineer were in attendance to present the plan. Mr. Wild explained that there is a cul-de-sac street proposed, with all six lots taking access from the interior street. There is a

taper proposed on Rt. 113 with a slightly widened access. In lieu of the full curbing and widening, the applicant would propose a stabilized and improved shoulder, would then determine the cost of the required improvements and make a capital contribution to the Township for the balance of those improvements. Mr. Wynn recommended that full improvements, other than perhaps sidewalks, be installed along the Rt. 113 frontage of the site, consistent with other recent developments in that area. A lengthy discussion took place.

Public Comment:

1. Mr. Jack McIlhinney, representing the Hilltown Landowner's Association, asked the difference between this site and the Pond View Estates Subdivision site, since in the recent past, it was discussed that sidewalks and curbs would be required along Rt. 113. Supervisor Manfredi explained that a sidewalk/walking trail along Rt. 113 for the Pond View Estates Subdivision would connect to existing sidewalks in Silverdale and the general area. While he is not a proponent of sidewalks and curbs, Mr. McIlhinney feels that the Township should be consistent in their requirements. Discussion took place.

2. Mrs. Marilyn Teed of Mill Road noted that if the TelVil Subdivision, which is located near this proposed development, is approximately ¼ mile from a shopping center, she believes those residents may wish to walk or ride their bike on a sidewalk to the shopping center.

Chairperson Bennington suggested that the Rt. 113 sidewalk issue be tabled until a future date. The Supervisors agreed, noting that the cartway widening and curbing should be required along Rt. 113 for the Baker Tract Subdivision.

3. Wallace Tract Subdivision (Preliminary/Final) – The 3-lot subdivision located on Broad Street was unanimously recommended for preliminary and final plan approval subject to completion of outstanding items as contained within the April 5, 2004 engineering review with the following noted:

- Waivers have been recommended for approval as requested by the applicant and discussed within Item #3.A, B, C, and D of the April 5, 2004 engineering review.

With respect to item #3.D, the applicant offered a fee in-lieu-of cartway overlay of Broad Street in consideration that Broad Street will ultimately be overlaid along the frontage of the tract during the construction of the Ridings of Hilltown Subdivision. The Planning Commission unanimously approved a motion recommending a waiver of the cartway overlay, but the motion did not include a requirement that the applicant contribute a fee in-

lieu-of to the Township. A condition of the waiver approval is that the applicant repair any damage to the roadway along the frontage of the tract.

Mr. Wynn noted that the Planning Commission's recommendation for waiver of sidewalks also included a recommendation that the Township receive a fee in-lieu-of sidewalk/walking trail construction. Further, it is Mr. Wynn's recollection that the request for waiver of overlay included an offer by the applicant to contribute a fee in-lieu-of. Mr. Wild advised that the applicant would be amenable to discussing with the Board of Supervisors the possibility of a token contribution on a per-lot basis for a waiver of the overlay.

- Waiver requested from Stormwater Management Ordinance requirements as discussed in Item #3.E of the engineering review is withdrawn by the applicant who advised they would comply with the Stormwater Management Ordinance provisions.
- Item #9 of the engineering review discusses the requirement to pay a fee in-lieu-of recreation land. Mr. Ed Wild, the applicant's legal counsel was present and questioned the amount of the fee indicating that the fee referenced in the engineering review was based upon a Resolution adopted in January of 2004 after the initial submission of the plan application. Mr. Wild believes that the fee should be based upon the prior Resolution requiring \$1,500.00 per lot instead of \$1,962.00 per lot.

Mr. Ed Wild, the applicant's legal counsel, Mr. Ralph Graf, the applicant's engineer, and Mr. Brian Wallace, the applicant, were in attendance to discuss the plan.

The Supervisors advised that the current \$1,962.00 per lot recreation fee would be required and agreed to waive the requirement for overlay, with the condition that the applicant repair any damage to the roadway along the frontage of the tract, as noted above.

Public Comment:

1. Mr. Jack McIlhinney of Hilltown Landowner's Association recalls the only reference to this project is from the December 15, 2003 Planning Commission meeting, where they indicated that an extension had been received. However, at the April 19, 2004 Planning Commission meeting, this project was before the Planning Commission as a preliminary/final plan even though it is a major subdivision. Mr. Wynn agreed that it is very rare for the Planning Commission to make a recommendation for preliminary/final plan approval for a major subdivision, however it is permissible. He believes that the Planning Commission felt that there were not that many outstanding

issues that would require reviewing the plan again, especially in consideration of the fact that they are being overwhelmed with a great number of larger subdivision plans. Discussion took place.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to grant preliminary/final plan approval to the Wallace Tract Subdivision, pending completion of all outstanding items as noted in Mr. Wynn's April 5, 2004 engineering review and in discussions as noted above. There was no further public comment.

4. Nickel Tract Subdivision (Final) – The minor subdivision located on Township Line Road was recommended for conditional final plan approval by the Planning Commission (5:1 vote, with Mr. Beatrice opposed), subject to completion of outstanding items as contained within the April 2, 2004 engineering review with the following noted:

- The Planning Commission struggled with the irregularly shaped lot lines and was concerned with the precedent that may result from approval of the plan. It is noted that the Zoning Hearing Board approved a variance to permit the lot areas as shown on the subdivision plan, which include flag lots less than 10 acres in area. The Zoning Hearing Board did not specifically rule on the lot line configuration although the configuration was contained on the plan presented to the Zoning Hearing Board. The Planning Commission recommendation for approval also includes a unanimous recommendation to deny the configuration as shown on the plan and to require the plan to be revised to eliminate the irregularly shaped lots.
- Waivers requested as contained within Item #2.A and C in the engineering review were unanimously recommended for approval.
- During the review, Item #6 was discussed and clarified that the fee in-lieu-of required pursuant to Section 805 of the SALDO would be for Lot #2 only in the amount of \$1,962.00. The dwelling on Lot #2 was constructed as an accessory caretaker dwelling and is revised by the recordation of the plan as a primary Use B1 dwelling.

A lengthy discussion took place.

Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to grant conditional final plan approval to the Nickel Subdivision, pending

completion of all outstanding items as noted in Mr. Wynn's engineering review dated April 2, 2004. There was no public comment.

5. The Planning Commission unanimously recommended denial of the Aichele Tract Subdivision and Haberle Tract Subdivision unless extensions are received from the applicants. The Aichele Tract Subdivision plan review period expires on May 16, 2004, while the Haberle Subdivision plan review period expires on April 30, 2004.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to deny the Aichele Tract Subdivision, unless a written extension is received no later than May 16, 2004. There was no public comment.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to deny the Haberle Subdivision, unless a written extension is received no later than April 30, 2004. There was no public comment.

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

1. Car Sense Land Development – Improvements required pursuant to the Car Sense Land Development have been completed and Mr. Wynn recommended acceptance of improvements to commence the 18-month maintenance period. Improvements included access/drainage improvements along Rt. 309 (PennDot sign-off has been received), stormwater management facilities, erosion and sedimentation control, and landscaping.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously accepting completion of improvements and to commence the 18-month maintenance period for the Car Sense Land Development effective May 1, 2004, as noted above. There was no public comment.

2. The Planning Commission unanimously recommended approval of all applications for the Agricultural Security Area.

G. MANAGER'S REPORT – Mr. Gregory J. Lippincott, Township Manager –

1. Mr. Lippincott advised that two local businesses have committed to donate \$250.00 each to assist the Township with providing a donation to the Pearl S. Buck Foundation for International Day, as discussed at a previous meeting.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to approve, in Hilltown Township's name, the donations by the two local

businesses, to the Pearl S. Buck Foundation as benefactor for International Day. There was no public comment.

2. Mr. Lippincott asked if the Board wished to set the Fire Marshall salary at a rate of \$50,000.00 per year, reviewable in six months time. The Fire Marshall, Mr. Dan Jenkins, will begin employment with Hilltown Township on June 1, 2004.

Motion was made by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to set the salary for the Fire Marshall position at a rate of \$50,000.00 per year, to be reviewed in six months time. There was no public comment.

H. CORRESPONDENCE – Mr. Gregory J. Lippincott, Township Manager –

1. An invitation has been received from the Delaware Valley Regional Planning Commission to attend the American Planning Audio Conference on Suburban Placemaking to be held at the DVRPC office at 111 S. Independence Mall East, in Philadelphia on Wednesday, May 26, 2004 from 4:00PM to 5:00PM. Supervisor Manfredi will check his schedule to see if he can attend.

2. A copy of the draft East Branch Perkiomen Creek Watershed Act 167 Stormwater Management Plan has been received by the Bucks County Planning Commission and is available for public inspection at the Township office through May 5, 2004. The County Commissioners will conduct a Public Hearing on the plan as part of their regular meeting on May 5, 2004 at 10:00AM at the Perkasio Borough Hall. Following the County Commissioners adoption of the plan, it will be sent to the PADEP for approval.

I. MYLARS FOR SIGNATURE: WaWa Land Development

J. PUBLIC COMMENT:

1. Mr. Jack McIlhinney of Broad Street reminded the Supervisors that there is a Heritage Corridor Rt. 113 meeting scheduled for April 29, 2004 – one from 4:00PM to 6:00PM and one from 7:00PM to 9:00PM at the Souderton Borough Hall.

2. Mrs. Marilyn Teed of Mill Road encouraged everyone to vote tomorrow on Election Day.

At the last Supervisor's meeting, Mrs. Teed suggested that rotating alternates be appointed to the vacancy on the Zoning Hearing Board. A response from Mr. John Snyder, chairperson of the Zoning Hearing Board, was that an alternate would only act if there were not a quorum of the Zoning Hearing Board. Mrs. Teed spoke to the

Pennsylvania Local Government Commission, who provided clarification of what the MPC requires for Zoning Hearing Boards. It states "There shall be either three or five residents on the Zoning Hearing Board." Therefore, Mrs. Teed stated that Hilltown Township does not, at the present time, have a valid Zoning Hearing Board, and believes that some of the Zoning Hearings they have been holding may be in question. Supervisor Manfredi reminded Mrs. Teed that two members make a quorum. Discussion took place.

3. Mrs. Judy Greenhalgh of Blooming Glen Road asked when the next Quarry Hearing would be held. Solicitor Grabowski advised that no new hearings have been scheduled at this time.

Mrs. Greenhalgh asked if the Supervisors were aware that on March 30, 2004, the DEP approved that Blooming Glen Quarry could dig down another 100 ft. to 300 ft. in the existing hole. The Supervisors were not aware, and asked Mr. Lippincott to determine whether the same applied to the Skunk Hollow Quarry. Mrs. Greenhalgh had asked a representative of DEP if that meant that if a quarry expansion is approved by the Township that H & K can go down 300 feet, and was told that H & K could not, they would have to re-apply to increase the depth. Mrs. Greenhalgh also spoke to Alan Hirschfield about the well monitoring, who indicated they are now including a lot more other homes, but not of the 10 original wells she had pointed out. She asked Mr. Hirschfield when she might receive a possible reimbursement for those wells that went dry in the 1990's and early 2000's. Mr. Hirschfield indicated that in perhaps 2 ½ years or more, reimbursement could take place. Mrs. Greenhalgh is concerned that H & K is stonewalling this issue. Chairperson Bennington suggested that the records be reviewed to determine what H & K had said at that specific hearing with regard to those wells.

K. SUPERVISOR'S COMMENTS:

1. Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to appoint Mr. Chuck Kulesza to the Hilltown Township Planning Commission to complete a term vacancy, which expires on December 31, 2004. There was no public comment.

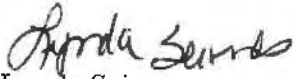
Supervisor Manfredi commented that Mr. Kulesza currently serves on the Open Space Committee, and suggested that he continue to do so until another individual can be appointed to that vacancy.

Motion was made by Supervisor Manfredi, seconded by Supervisor Egly, and carried unanimously to authorize the advertisement of a vacancy on the Open Space Committee, as noted above. There was no public comment.

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

M. ADJOURNMENT: Upon motion by Supervisor Egly, seconded by Supervisor Manfredi, and carried unanimously to adjourn the April 26, 2004 Hilltown Township Board of Supervisors Meeting at 9:15PM.

Respectfully submitted,


Lynda Seimes
Township Secretary

(*These minutes were transcribed from tape recordings taken by Mrs. Lorraine Leslie, Township Treasurer).