

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING
Monday, October 27, 2003
7:30PM**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairperson Bennington at 7:32PM and opened with the Pledge of Allegiance.

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

Chairperson Bennington announced that the Board met in Executive Session prior to this meeting in order to discuss personnel, real estate and legal matters concerning the Quarry, Telvil Corporation and the Stormwater Management Ordinance suit.

A. PUBLIC COMMENT ON AGENGA ITEMS ONLY: None

B. APPROVAL OF CURRENT BILLING: Chairperson Bennington presented the Bills List dated October 28, 2003 with General Fund payments in the amount of \$58,279.09 and State Highway Aid Fund payments in the amount of \$16,891.38; for a grand total of all payments in the amount of \$75,170.47.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to approve the Bills List dated October 28, 2003. There was no public comment.

C. CONFIRMED APPOINTMENTS: None

D. MANAGER'S REPORT: Mr. Gregory J. Lippincott, Township Manager

1. Mr. Lippincott reported that he had spoken to Mr. Lawrence R. Bucci, District Safety Engineer for PennDOT. Mr. Bucci informed Mr. Lippincott that a letter would be forthcoming from PennDOT in which PennDOT will be suggesting a multi-way stop at the intersection of Hilltown Pike and Route 152. Flashers and stop ahead signs will be placed ahead of the stop signs. The flashers will be installed for 45 days. After the conclusion of 45 days, the flashers will be removed, but the stop ahead signs will remain. The Township Staff will meet with PennDOT to make its recommendations for reflectors in the road, an arrow in the intersection, and a flashing light ahead of the curve on Hilltown Pike. Mr. Lippincott will keep the Board of Supervisors apprised of any developments regarding this intersection.

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2. Mr. Lippincott reported that at a recent Quarry Meeting, H & K testified that a hunting stand was located on Township property. Since that time, the Hilltown Township Police Department has removed the hunting stand.

3. Mr. Lippincott has spoken with Barbara Bloomfield from Pennsylvania DEP. She has tentatively set November 24, 2003 to attend the regularly scheduled meeting of the Board of Supervisor's to discuss the status of the MTBE situation in Hilltown Township.

E. CORRESPONDENCE: None

F. SOLICITOR'S REPORT: - Mr. Francis X. Grabowski, Township Solicitor - Solicitor Grabowski reported that there were several agreements to bring before the Board of Supervisors.

1. Orchard Hill Subdivision - This subdivision is located between Route 152 and Telegraph Road. The open space land which is located on Telegraph Road has been offered for dedication. Discussion took place at the last public meeting of the Board of Supervisor's and the informal consensus of the Board of Supervisor's was to accept that dedication. The paperwork has now been accomplished and a resolution is now required to proceed with this dedication.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to adopt Resolution 2003-30 to accept dedication of the Open Space within the Orchard Hill Subdivision.

2. Solicitor Grabowski reported that Long Leaf II has entered the maintenance period. Heritage Corporation has requested permission to substitute their escrow by having a bond issued by Gulf Insurance Company, which they have accomplished. The bond has been received. They have also posted a \$5,000.00 cash escrow as required by Hilltown Township. Solicitor Grabowski presented a modification agreement to the original Subdivision agreement of June, 2000.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to accept the Modification Agreement for Long Leaf II.

3. Solicitor Grabowski reported that the Subdivision and Financial Security Agreements are available for the Board of Supervisor's relative to the Summer Lea Development, Phase II. Phase I of the development was the townhouse portion constructed by T.H. Properties. Heritage Construction retained the portion of the development that involves 108 rental units. Heritage Construction has entered into the appropriate agreements regarding the rental portion of the development. The Financial

Security Agreement has been accomplished by placement of funds with the Wilmington Trust Company of Pennsylvania in the amount of \$250,616.15, which represents the required improvements.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to accept the Subdivision and Financial Security Agreements for the Summer Lea Development.

Solicitor Grabowski reported that there had been two Quarry Hearings scheduled for the month of November. The first on Thursday, November 6, 2003 and the second on November 19, 2003. The solicitor for H & K will be unavailable for the November 19, 2003 meeting and therefore the meeting has been cancelled. The Quarry Hearing scheduled for Thursday, November 6, 2003 will be held at the Township Building at 7:00PM. This hearing will cover Blooming Glen only with regard to blasting and traffic and any other issues that they might want to bring before the Board that night.

In an effort to schedule hearing dates for December it was discussed that these hearings would most likely return to discussions regarding Skunk Hollow and therefore require the use of the Pennridge Middle School. Unfortunately with the scheduling of Christmas plays and pageants the Pennridge Middle School is unavailable for scheduling in December. Therefore, the next Quarry Hearing will be scheduled for some time in January. Mr. Gregory Lippincott, Township Manager will make the appropriate announcements on the e-mail newsletter.

G. PLANNING: Mr. C. Robert Wynn, Township Engineer

1. Quirk Land Development - Mr. Wynn reported that this plan is a land development waiver request located on Church Road. It is a 13 acre site that contains a dwelling and barn and proposes an additional barn, riding arena, hot walker, three running sheds and outdoor rink for twelve (12) horses.

Mr. Wild, representing the applicants, Richard A. Cooper and Katherine L. Quirk, stated that the property is zoned Rural Residential and that the applicants proposal is to find a place for the ten (10) horses that they own. They are seeking an A5 use for their property so that they can consolidate their horses on one location. The plans depict twelve (12) stalls. They would anticipate boarding two (2) horses. The applicants have appeared before the Planning Commission and have reviewed Mr. Wynn's letter which recommends approval of the land development waiver with four conditions. The applicants are willing to comply with all conditions and suggest that these conditions be imposed on the building permit rather than a full-blown land development.

Chairperson Bennington requested that Mr. Wild discuss all the conditions.

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Mr. Wild stated that the first condition was regarding proposed water use and information regarding the existing well must be submitted to verify the existing well is adequate to serve the additional water demand and will not adversely impact adjoining water supplies. The applicants will submit that information to Mr. Wynn to verify that the existing water supply is adequate and should an additional well be required the applicant will comply with any recommendations that Mr. Wynn would supply regarding drilling that well.

Mr. Wild stated that the second condition was regarding the Stormwater Management site specific soil testing and design which must be submitted in accordance with requirements of Ordinance 2003-2, adopted on June 23, 2003 and that a sufficient escrow be posted to guarantee the installation of whatever stormwater management facilities might be required prior to the issuance of any building or zoning permit. The applicants are willing to comply with this condition.

Mr. Wild stated that the third condition was regarding tabulation and calculations which must be submitted to verify that the proposed impervious surface does not exceed the 9% permitted, pursuant to requirements of the Zoning Ordinance. The applicants will have Mr. Todd Myers of Cowan Associates submit that information to Mr. Wynn.

Mr. Wild stated that the fourth condition was regarding the requirement for the applicant to confirm that sewage disposal facilities will not be constructed within the proposed barn, arena, or hot walker; or verification of approval of the proposed sanitary sewer facilities must be received in writing from the Bucks County Department of Health. The applicant is not proposing any additional sewage facilities however; should that be necessary, the applicant would comply with this requirement.

Chairperson Bennington asked whether or not there was a fifth condition. Mr. Wynn explained that this item was discussed at the Planning Commission dealing with the use. The use on the plan was described as residential agricultural accessory, however, both the accessory agricultural use and the A1 agricultural use prohibit boarding of horses for other people. The use A5 permits this boarding of horses for other people. The applicant intends this proposal to be A5, Riding Academy although they don't intend to have a riding academy or any shows and will actually commit to this restriction. The Planning Commission recommended approval of land development waiver request based on the above mentioned conditions.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to approve the Quirk Land Development Waiver.

Mrs. Marilyn Teed of Mill Road suggested that perhaps the Board of Supervisors consider a change to the Zoning Ordinance because she feels a lot of people board their

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horses and don't go into the other aspects of A5 and a change would help people who wanted to board horses to keep their land open.

2. A & T Chevrolet Land Development Waiver – Mr. Wynn explained that this land development waiver is for a proposed 847 sq. ft. building addition to the rear of the A & T Chevrolet site located on Bethlehem Pike. The proposed building addition will provide two “detail” bays. No additional impervious surface is proposed, as the area of the building expansion is currently an existing paved area. Stormwater runoff from the site drains to, and is managed by, a detention basin constructed behind the A & T Subaru building on the adjoining parcel. The Planning Commission unanimously recommended approval of the land development waiver request, conditioned upon resolution of a contribution to the Township Park and Recreation Fund in a manner satisfactory to the Board of Supervisors.

Chairperson Bennington asked Mr. Allen if he would be agreeable to contributing \$2.00 per sq. ft. of the new building to the Township Park and Recreation Fund. Mr. Allen agreed.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender and carried unanimously to grant the land development waiver request of A & T Chevrolet with the condition of the above-agreed contribution to the Township Park and Recreation Fund.

3. Johnson Subdivision (Preliminary) – Mr. Wynn explained that this plan proposes a five-lot subdivision with frontage on both Schultz Road and Diamond Street. Four of the lots front on Schultz Road and one lot fronts on Diamond Street. The frontage of the lots on Schultz Road proposes curbs, widening and sidewalks. There are no improvements proposed along Diamond Street. Subsequent to the Planning Commission meeting, the Township has received a copy of the PennDOT Highway Occupancy Permit for Lot 5 on Diamond Street. There is a proposed detention basin, which will manage stormwater runoff, which is a wetland type basin. There is a new drainage channel being constructed from Schultz Road to bring water into the basin area. Lot 3 contains the existing dwelling, the other four lots are proposed for new dwellings. Lot 4 contains the stormwater management facility. The lots on Schultz Road will be served with public water with the exception of Lot 3, which is the existing dwelling and is served with private water. The lot on Diamond Street will be served an on site well. All lots will have on-site sewage disposal.

Mr. Wynn advised the Board of Supervisors that the applicant has agreed to comply with the items listed in the October 6, 2003 Engineering Review, which include plan requirements and outside agencies approvals.

Mr. Wynn noted that there is a waiver request with respect to desirable site distance for Lots 1 and 2 on Schultz Road. Mr. Wynn explained that if you are unable to meet the desirable site distance, then there is a minimum site distance calculation. The lots meet the minimum site distance calculation but not the desirable site distance, because there is vegetation and trees on the adjoining property which the applicant does not have the capability of removing.

Mr. Wynn also noted that the location of the driveway on lot 2, being to the westerly side, that by putting the driveway on the opposite side of lot 2, the lot will comply or almost comply with desirable site distance and only one lot will not meet the desirable site distance. The Planning Commission recommended a waiver of the desirable site distance be granted for lot 1 only.

The remaining waiver requests, which include lot line orientation, improvements on Diamond Street, plan scale, and the easement not being centered on a lot, which was created by a desire to save existing trees, have all been recommended by the Planning Commission.

Mr. Robert Johnson of 120 Schultz Road questioned what the fee in lieu of curbing on Diamond Street would total. Mr. Wynn responded that typically at the Final Plan stage, the applicants Engineer would submit a cost estimate to the Township and it would be determined at that time.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender and carried unanimously to grant preliminary approval for the five lot subdivision to Robert L. Johnson with the conditions as specified.

4. Highview Farm Subdivision (Minor) - Mr. Wynn advised the Board of Supervisors that this Subdivision was previously known as the Beres Subdivision located on Highview Road, which proposes to create one new building lot. Both lots are nearly three acres in area. The Planning Commission recommended denial of this plan for non-compliance with Subdivision Ordinance requirements as noted in the Engineering review as well as a recommendation that the waiver with respect to lot line orientation also be denied.

Mr. Wild is representing the applicant. Mr. Wild stated that the proposal is to subdivide the six acre tract into two lots which front on Highview Road. Lot 1 contains the existing dwelling, deck, garage, and barn. Lot 2 is proposed as the unimproved building lot. Each of the lots in terms of gross size is approximately three acres.

Mr. Wild stated that he believes the prime issue has to do with the configuration of lot 2, which is an L-shaped lot in the rear to pickup, the existing appropriate soils to allow a septic system to be installed. Mr. Wild referred the Board of Supervisors to Mr. Wynn's review letter dated August 12, 2003 in which Mr. Wynn states that the Subdivision

Ordinance, Section 504.2.D requires that lot lines intersect street lines substantially at right angles or radial to the street line from the street line to the rear lot line.

Mr. Wild believes that Section 504.2.D does not prohibit a ninety degree turn or a alteration in the lot line so long as there is a ninety degree angle at the street line. He also stated that this a two lot subdivision which needs to acquire sewer behind lot one simply because of the soils. He feels that there are unique or unusual circumstances that would support the waiver request.

Chairperson Bennington asked Mr. Wild if a straight line were drawn between Lot 1 and 2, would Lot 2 not perk without the L-shaped configuration. Chairperson Bennington agreed with the Planning Commission recommendation of denial of this waiver. Discussion took place.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to deny the Highview Road Subdivision Minor Plan based upon Section 504.2.D of the Subdivision Ordinance as it relates to the proposed lot layout and waivers as outlined by the Township Engineer as listed in correspondence dated August 12, 2003.

5. Haberle Subdivision - Mr. Wynn explained that this plan is a minor subdivision on Old Bethlehem Pike and the Planning Commission recommended denial of the plan because there have been no further plan revisions and the time frame for action is expiring. The latest engineering review is dated September 8, 2003. The Planning Commission is recommending denial of the plan unless an extension is received by the current deadline, which is November 16, 2003.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to deny the Haberle Minor Subdivision Plan unless an extension is received by November 16, 2003.

H. ENGINEERING: Mr. C. Robert Wynn, Township Engineer

1. Pileggi Land Development - Mr. Wynn explained that the Pileggi Land Development is the strip stores just South of Wawa and the eighteen-month maintenance period has expired at this point. The applicant had some items, which needed to be

addressed and that work has now been completed. Mr. Wynn is recommending that the Board of Supervisors accept the completion of the maintenance period.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to accept the completion of the maintenance period for the Pileggi Land Development.

2. Car Sense Land Development – Mr. Wynn explained that the Car Sense Land Development is next to Peruzzi on Route 309. The applicant has requested that the completion of the improvements be extended to April 24, 2004. Mr. Wynn is recommending that the Board of Supervisors extend the deadline for improvements to the Car Sense site be extended to April 24, 2004.

Motion was made by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously to approve the extension for completion of improvements to April 24, 2004.

I. MYLARS FOR SIGNATURE: None

J. PUBLIC COMMENT:

1. Mr. Joe Marino of 519 Red Wing Road asked whether or not the Planning Commission will be instructed to conduct interviews of candidates for the Planning Commission in public. Mr. Marino presented the Board of Supervisors with a letter outlining his interpretation of the Sunshine Law as it pertains to the interviewing of candidates for the Planning Commission, a copy of which is attached to these minutes. He stated that the Executive Session rule only pertains to the Board of Supervisors, not the Planning Commission. He is requesting that the Board of Supervisors instruct all Township Boards and Committee to conduct interviews for potential candidates in public.

Chairperson Bennington stated that this discussion has taken place before and that the Township Solicitor has advised the Board of Supervisors that the Committees and Boards of the Township can conduct interviews in private but they have to make their decision as to appointments in public. Chairperson Bennington disagreed with Mr. Marino's suggestion. Discussion took place.

Solicitor Grabowski stated that a policy decision has been made by the Board of Supervisors based upon the fact that interviews are not meetings. There is no deliberation that takes place in an interview.

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2. Mrs. Marilyn Teed of Mill Road wished to state that she supports Mr. Marino in his request to the Board of Supervisors.

Mrs. Teed placed a public request form for information about the invoices of all the attorneys and legal fees that the Township has been paying over the years and was denied. She is questioning whether or not there will be any action regarding her request.

Chairperson Bennington asked what specific instance Mrs. Teed would be looking for. Mrs. Teed responded that she is requesting all invoices from all attorneys that were submitted to the Township. Her request is for all invoices back to 1995.

Solicitor Grabowski responded to Mrs. Teed that he would recommend that she follow procedure and file an appeal.

Mr. Gregory Lippincott stated that he denied Mrs. Teed request in writing and suggested that she file an appeal to the Hilltown Township Board of Supervisors as detailed in Resolution 2002-3 to request a public hearing.

Mrs. Teed also asked the Board of Supervisor if the Township had hired a law firm to represent the Township in a suit regarding the Stormwater Management Ordinance. Chairperson Bennington responded that indeed Hilltown Township had hired attorneys to represent the Township in this matter, as was their right. Discussion took place.

Mrs. Teed also stated that she has filed a lawsuit to get the permits that were granted by the Zoning Hearing Board. She asked if it was the intention of the Township to fight this suit. Chairperson Bennington responded that it was the right of the Board of Supervisors to do so. Discussion took place.

3. Mr. Bill Rieser of 508 Telegraph Road asked at what point the Township would limit hunting because of the increase in population within the Township. He was concerned that at some point based on the density of the population that hunting should be restricted.

Supervisor Egly and Solicitor Grabowski concurred that the State Game Commission regulates hunting, not the Township.

Mr. Rieser asked what the time frame was for the dedication of facilities in the Hilltown Chase Development. Mr. Wynn, Township Engineer advised Mr. Rieser that the developer is requesting an extension to complete the improvements to Hilltown Chase until the spring of next year. This request will be before the Board of Supervisor's probably within the next month. There are some outstanding issues that are trying to be resolved immediately because of the concerns of some of the residents of Hilltown

Chase. The roadways will not paved this year but Beverly Road will opened shortly. Beverly Road will be opened prior to dedication because of the effect that restoring the cul-de-sac area had on plowing last year. To avoid the problem occurring again the developer has agreed to allow Township plows to go to the intersection and turn around rather than back up as had been the case. The roads within the development will be plowed by a private contractor.

4. Mr. Hans Sumpf, 9 Beverly Road – Mr. Sumpf asked whether or not the trash trucks would be allowed to continue through Beverly Road to eliminate the noise created by trucks backing up. Mr. Wynn advised Mr. Sumpf that the trash trucks would be allowed to continue through that intersection.

Mr. Sumpf also stated that the sewer drain between 9 Beverly Road and 11 Beverly Road is close to collapsing. Some of the bricks have fallen into the inlet. Chairperson Bennington asked Mr. Wynn to check out this situation

Mr. Sumpf wanted to note that he does not receive a letter advising him of when the Water and Sewer Authority intends to flush the water system. Vice-Chairperson Bender advised him that he believes that this notice is printed on the quarterly postcard invoice.

5. Mrs. Nancy Boice of Mill Road asked for clarification regarding the letter referred to earlier from PennDOT regarding the intersection at Route 152 and Hilltown Pike. Mr. Gregory Lippincott responded that PennDOT is currently preparing a letter to Hilltown Township outlining their recommendations for this intersection. Mrs. Boice is requesting that the Township address a possible speed reduction be discussed with PennDOT in that area. Chairperson Bennington assured Mrs. Boice that this issue would be included in discussions with PennDOT regarding this intersection.

K. SUPERVISOR'S COMMENTS:

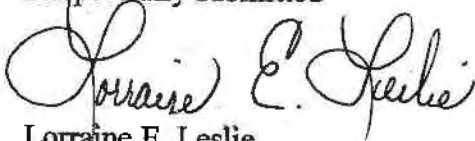
1. Supervisor Egly asked Mr. Wynn how far Mr. Pileggi is allowed to take the landscaping business back into the field. Mr. Wynn responded that this was not a land development and he is unsure. Solicitor Grabowski responded that this was a legal agreement and that he would look into that question for Supervisor Egly.

2. Chairperson Bennington stated that tomorrow evening, Tuesday, October 28, 2003 is the Seylar School dedication ceremony at 7:00PM. He also stated that Wednesday evening, October 29, 2003 at 7:00PM there would be a public budget meeting at the Township Building and that the next Quarry Hearing is scheduled for November 6, 2003.

L. PRESS CONFERENCE: There were no members of the press present.
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M. ADJOURNMENT: Upon motion by Supervisor Egly, seconded by Vice-Chairperson Bender, and carried unanimously, the October 27, 2003 Hilltown Township Board of Supervisors regularly scheduled meeting was adjourned at 8:55PM.

Respectfully submitted



Lorraine E. Leslie
Township Treasurer

Findings

The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decisionmaking of agencies is vital to the enhancement and proper functioning of the democratic process and the secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society.

Declarations

The General Assembly hereby declares it to be the public policy of this Commonwealth to insure the right of its citizens to have notice of and the right to attend all meetings of agencies at which any agency business is discussed or acted upon as provided in this chapter.

Agency

The body, and all committees thereof authorized by the body to take official action or render advice on matters of agency business.

Sunshine Law

The Sunshine Law requires all public agencies to take all official action and conduct all Deliberations leading up to official action at public meetings. The Law covers all actions by the board and its committees and by all boards and commissions of the Township. Official actions include making recommendations, establishing policy, decisions on municipal business and votes taken on any motion, resolution, ordinance, rule, regulation, proposal, report or order.

Superior Court has ruled that appointed members of Boards, Committees, Commissions, etc. cannot perform executive functions, because the appointed members are not directly answerable to the voters.

Terms of Office are published on the Township Web site. People cannot just be reappointed because they want to stay on the committee, they must give other residents a chance to apply.

All interviews in public. Commission may, after public interviews, deliberate in private to decide whom they will recommend to the Supervisors.

This practice does not take away any of the supervisors power to appoint anyone they chose. I don't understand why they do not want to insure the right of the citizens to participate.

Submitted by:

**Joe Marino
519 Red Wing Rd.
Perkasie, PA 18944-3127**