

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED PUBLIC MEETING
Monday, August 28, 1995
7:30PM

The regularly scheduled public meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:40PM and opened with the Pledge of Allegiance.

Also present were: Jack C. Fox, Supervisors
Bruce G. Horrocks, Township Manager
C. Robert Wynn, Township Engineer
Francis X. Grabowski, Township Solicitor
George C. Egly, Chief of Police
Lynda Seimes, Township Secretary

Chairman Bennett advised Supervisor Bennington was out of the country on business and would not be in attendance this evening. Further, Chairman Bennett announced the Board of Supervisors, Township Engineer, Township Solicitor, and Township Manager met in Executive Session prior to this meeting to discuss legal matters.

A. APPROVAL OF MINUTES:

Action on the minutes of the July 11, 1995 B.O.C.A. Hearing for Blooming Glen Restorations: Motion was made by Supervisor Fox, seconded by Chairman Bennett and carried unanimously to approve the minutes of the July 11, 1995 B.O.C.A. Hearing for Blooming Glen Restorations, as written.

Action on the minutes of the July 24, 1995 Board of Supervisors Meeting: Supervisor Fox noted the following corrections:

- pg. 13, fifth paragraph, should read "8:40PM - Chairman Bennett adjourned the Public Hearing **after considering the three proposed Ordinances** at 8:40PM, and called for a 5 minute recess."

- pg. 27, second paragraph, third sentence, should read "Supervisor Bennington felt the idea was a good one, since there would be a document in place which would avoid negotiations with developers for **off-site improvements.**"

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to approve the minutes of the July 24, 1995 Board of Supervisors meeting, as corrected.

Action on the minutes of the August 7, 1995 B.O.C.A. Hearing Continuation for Blooming Glen Restorations: Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously, to approve the minutes of the August 7, 1995 B.O.C.A. Hearing Continuation for Blooming Glen Restorations, as written.

Action on the minutes of the August 24, 1995 Board of Supervisors Worksession Meeting: Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to approve the minutes of the August 24, 1995 Board of Supervisors Worksession Meeting, as written.

B. APPROVAL OF CURRENT BILLING: Chairman Bennett presented the Bills List, dated August 29, 1995, with General Fund payments in the amount of \$10,846.99, and State Highway Aid payments in the amount of \$838.41; for a grand total of all funds in the amount of \$11,685.40.

Supervisor Fox questioned the bill in the amount of \$1856.51 for B. R. Scholl Sales and Service. Mr. Horrocks believes that bill was for a major repair of truck #44. Further, Supervisor Fox questioned the bill in the amount of \$1959.33 from Wix, Wenger and Weidner for professional services. Mr. Horrocks explained that bill was to hire a Harrisburg law firm to review the State audit findings of pensions.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to approve the Bills List, dated August 29, 1995, subject to audit.

C. TREASURER'S REPORT - Mr. Bruce G. Horrocks, Township Manager: Mr. Horrocks presented the Treasurer's Report with the following balances as of August 25, 1995:

General Fund Checking Account	\$ 95,366.56
Payroll Checking Account	\$ 343.82
Fire Fund Checking Account	\$ 55,780.29
Debt Service Checking Account	\$ 99,103.73
State Highway Aid Checking Account	\$ 89,612.42
Escrow Checking Account	\$ 127,888.21

Supervisor Fox asked if there will be enough funding available for the fire companies this year, and Mr. Horrocks replied that there would.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to approve the Treasurer's Report, dated August 25, 1995, subject to audit.

D. RESIDENT'S COMMENTS ON AGENDA ITEMS ONLY: None.

E. CONFIRMED APPOINTMENTS:

1. Mr. Bob Wendig - Agricultural Security District - Mr. Horrocks advised Mr. Wendig is out of town and could not be in attendance this evening. Mr. Horrocks noted the Township is in the

process of updating the Agricultural Security District.

2. Mr. Jeff Smith - Fretz Road Truck Traffic - Mr. Smith was not in attendance at this time.

3. Mr. Adolph Jager - Subdivision Requests - Mr. Jager advised Mr. Horrocks asked him to be present this evening in order to discuss the subdivision requests stated in his letter of July 18, 1995. Mr. Horrocks indicated to Mr. Jager that there were some conditions contingent upon approval, including completion of all outstanding items in Mr. Wynn's review letter. Mr. Jager has paid his sewer/water connections, the dedication of the right-of-way information has been presented to Mr. Wynn, and documentation of pins and monuments has been completed and submitted. The three outstanding items include the capital contribution, the escrow fees for improvements to the lots, and payment of engineering/legal fees incurred.

Supervisor Fox understands that Mr. Jager has requested paying the capital contribution in installments, as the lots are sold, however he has some apprehension with that proposal. Mr. Jager explained none of the lots will be sold and no construction would begin on homes until the fees were paid. Mr. Jager is certain a simple agreement could be drawn up that specifies no transfer of property can take place until the road improvement fees have been paid. Chairman Bennett shares Supervisor Fox's concern, and asked if Mr. Jager had considered securing a Letter of Credit. Discussion took place regarding the capital contribution. Mr. Wynn advised the purpose of the Financial Security Agreement is to guarantee that regardless of what happens to the developer, the public improvements as required by the subdivision plan are completed. Further, the capital contribution was to be paid prior to plan recordation. Solicitor Grabowski noted that with the release of liens for recordation, the applicant is then free to convey property. If there was a situation where an applicant is forced into bankruptcy or has passed away, a third party would then be involved, who may not be as cooperative and amicable with the Township. The Municipalities Planning Code was passed by the State of Pennsylvania to allow for alternate methods by which improvements could be accomplished, either prior to or following plan recordation. The M.P.C. also provides protection to municipalities for that work to be accomplished after plan recordation. Solicitor Grabowski suggested Mr. Jager secure a Letter of Credit or a bond to provide a guarantee to the Township for the work to be accomplished.

F. MANAGER'S REPORT - Mr. Bruce G. Horrocks -

1. Mr. Horrocks spoke with Mr. Dick Feindler, the manager of Telford Borough Authority, who is requesting that an elected

official from Hilltown Township attend their Wellhead Protection Program. According to Mr. Feindler, Hilltown's representative would be required to attend an organizational meeting with Telford Borough Authority and other elected officials serviced by T.B.A., in order to discuss zoning and water issues. Chairman Bennett volunteered to attend the Wellhead Protection Program meeting.

2. Mr. Horrocks presented fifteen escrow releases for the Board's approval this evening, one of which is cash held by the Township:

Bricks Villa	Voucher #02	\$	39,228.21
Bricks Villa	Voucher #03	\$	1,477.90
Country Roads Phase I	Voucher #42	\$	255.45
Country Roads Phase I	Voucher #43	\$	22,479.98
Country Roads Phase II	Voucher #10	\$	2,623.65
Country Roads Phase II	Voucher #11	\$	103,693.50
Country Roads Phase II	Voucher #12	\$	2,475.00
Derstine's Inc. Land Dev.	Voucher #03	\$	22,179.60
Derstine's Inc. Land Dev.	Voucher #04	\$	1,845.45
Hilltown Hunt	Voucher #03	\$	124,323.03
Hilltown Hunt	Voucher #04	\$	2,617.20
Miller Subdivision	Voucher #01	\$	21.45
Quiet Acres	Voucher #11	\$	477.70
Quiet Acres	Voucher #12	\$	21,454.20
Spur Road Assoc.(Fretz)	Voucher #02	\$	345.10

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize the fifteen escrow releases as presented above.

3. A quote has been received from Gum Insurance, who is the Township's agent for Errors and Omissions for both Public Official and Law Enforcement Liability Insurance. The quote for 1996 for Public Official coverage contains no premium change, and for Law Enforcement Liability, the premium dropped approximately \$190.00.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize Errors and Omissions for both Public Officials and Law Enforcement Liability Insurance with Gum Insurance Agency.

4. The Board had previously requested that an advertisement be placed in the newspaper for volunteers to serve on the Transportation/Capital Improvement Plan Advisory Committee concerning impact fees. Solicitor Grabowski has prepared a newspaper notice, however Mr. Horrocks noted that the requirements involved make the advertisement quite lengthy. Rather than pay the price for a legal notice in the newspaper, Mr. Horrocks suggested

a regular advertisement be placed in the body of the newspaper. Mr. Horrocks believes the cost of a regular advertisement would be less than \$100.00. The Board was in agreement with Mr. Horrocks' suggestion.

5. Mr. Horrocks requested authorization to bid for gasoline and diesel fuel, and also to bid for certified public accountants. The three year contract with Niessen, Dunlap and Pritchard expires in 1995.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize advertisement for bids for gasoline and diesel fuel, and to also advertise bids for certified public accountants.

6. To date, the Township has received four letters of interest for the vacant position on the Zoning Hearing. The deadline for applying is August 31, 1995. The Zoning Hearing Board will conduct interviews and provide a recommendation to the Board of Supervisors. Supervisor Fox suggested that the Board also have the opportunity to review all letters of interest.

7. Chief Egly advised that 50 violations have been issued to trucks using Fretz Road.

A speed check was run on Rt. 113 on Thursday, August 24, 1995, which netted eleven speeders and three equipment violations. The highest speed was 73 m.p.h., and the average speed was 63.9 m.p.h. in a 45 m.p.h. speed zone. There were no Hilltown Township residents involved.

The Police Department has received a huge number of telephone calls concerning the Burning Ordinance. Chief Egly explained a representative of the Department of Environmental Protection was recently traveling south on Rt. 309, when he spotted dense, black smoke. The representative drove to the Leroy Haberle property located on Bethlehem Pike, the source of the smoke, where he found tires, batteries and other assorted items on fire. Mr. Haberle had attempted to cover the fire with dirt using a backhoe, however once he realized it was not deterring the fire, he left the backhoe and ran through the woods when a police car drove up. Chief Egly noted Mr. Haberle has been cited for violation of the Burning Ordinance, though he believes the Haberle property requires a bit more investigation. Chief Egly feels there are a great deal of violations on this site, and suggested the Board authorize the Zoning Officer to investigate further.

The Emergency Management Coordinator asked Chief Egly to mention that there have been some problems with residents not contacting the fire chief in their area when planning a burn. Also, several

residents have been using gasoline or other flammable materials to start roaring fires. The Emergency Management Coordinator suggested that the Supervisors consider placing a ban on burning until the drought is over.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to declare a ban on all open fires in Hilltown Township, upon the recommendation of the Chief of Police and the Emergency Management Coordinator, until the drought is over.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize a visit to the Haberle property located on Bethlehem Pike, by Mr. Horrocks, the Zoning Officer, Chief Egly, and the Emergency Management Coordinator, as well as representatives of E.P.A..

8. Chairman Bennett received a phone call from a former Fire Panel member, complaining about the speed limit on Upper Stump Road. This gentleman represents a number of neighbors in his area, requesting that a study be done on the 55 m.p.h. speed limit on Stump Road. Chairman Bennett suggested a speed study be conducted, in conjunction with New Britain Township, on Upper Stump Road. Supervisor Fox was in agreement with Chairman Bennett.

G. CORRESPONDENCE: None.

H. SOLICITOR'S REPORT - Mr. Francis X. Grabowski, Township Solicitor -

1. Solicitor Grabowski presented a set of land development agreements for the Sara A. Nickel property located on Rt. 309. The owner intends to construct a retail store and marine repair shop. In addition to the Land Development Agreement, Solicitor Grabowski presented a Financial Security Agreement which provides for the guarantee of required improvements. The amount of the escrow is \$52,500.14, secured via a Letter of Credit issued by Union National Bank and Trust Company. The approved plan also provides for the use of a non-residential holding tank. Per the existing Holding Tank Ordinance, a Holding Tank Maintenance Agreement has been executed and provided, along with a \$1,000.00 deposit to be placed in escrow for the security and maintenance of the holding tank.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to accept the agreements as outlined above for the Nickel Subdivision, and to accept the Letter of Credit from Union National Bank and Trust Company.

2. Solicitor Grabowski presented a declaration of easement for the two lot Bouleware Subdivision.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to **adopt Resolution #95-40 to accept the Declaration of Easement for the Bouleware Subdivision.**

I. PLANNING - Mr. C. Robert Wynn, Township Engineer:

1. Phinney Subdivision (Preliminary) - Mr. Terry Clemons, legal counsel for the applicant, was in attendance to present the plan. This three lot subdivision is located on Bypass Road and was unanimously recommended for preliminary approval by the Planning Commission, subject to the following conditions:

- Waivers requested include the following - cartway widening, curb, sidewalk, street lights, lot depth-to-width ratio, and showing existing features within 500 ft. of the site.
- Plan must be revised to include a community water supply and distribution system designed and constructed to Hilltown Township Water and Sewer Authority specifications as required by Ordinance #87-3.
- Ultimate right-of-way of Bypass Road shall be dedicated to the Township as offered by note #6 on the plan.
- Planning Module approval must be received from the Township, Bucks County Department of Health, and Pennsylvania Department of Environmental Protection, for proposed on-site sewage disposal systems.
- Approval must be received from the Bucks County Conservation District for erosion and sedimentation control measures to be implemented during construction activities.
- Property pins and monuments must be installed prior to plan recordation and certified in writing by the responsible surveyor.

Concerning the conditions of plan approval, Mr. Clemons advised Mr. Phinney will comply with all of the requirements, however there is some difficulty with the requirements for a community water supply and distribution system. Mr. Clemons advised there are two different sections of Ordinance #87-3 which address water supply. Section 512 requires a well test for any major subdivision, and since this is a three lot subdivision, a water resources impact study was required. Two such studies were conducted, with the first testing five neighboring wells. The conclusion of the first test was that there would be no adverse impact. Unfortunately, the applicant's consultant did not consult with Mr. Wynn before the

original well test was conducted, and several neighboring residents did not have their wells tested, as requested. A second well study was conducted during drought conditions, utilizing eleven or twelve neighboring wells. In summary, the conclusion of the second well test was that both 48 hour pumping tests of the on-site well indicated the Phinney tract is capable of supplying an adequate quantity of quality water for the proposed three lot subdivision. As a result of predicted low pumping rates of household wells, draw down effects on neighboring wells and between wells within the Phinney Subdivision, should be nominal. Further, Mr. Clemons noted, the hydrogeologic budget for the site would provide sufficient groundwater for the three proposed lots. Mr. Clemons commented one of these three lots contains an existing residence and well, the site which is occupied by Mr. Phinney. From the Planning Commission meeting, it is clear to Mr. Clemons that Mr. Wynn does not contest the results and conclusions made by Del-Val Soils. While the Planning Commission has indicated a preference for a single well community system for this project, the consultant's hydrogeologic information indicates that individual well systems would provide less stress to the aquifer. It is certainly clear to Mr. Clemons that there would be no greater stress to the aquifer by having individual wells, feeling this is true because the draw down will be .7 gallons per minute from these three homes. The well was tested at 4 gallons per minute for a 48 hour period without showing an adverse impact. The consultant's reason for having individual wells is that the wells would be pumped at random and the demands for water would be spread out over a period of time. Mr. Clemons does not feel the requirement for a community water system impacts one way or the other on the adequacy of the water supply. If the Hilltown Authority had plans to run public water supply in that area, Mr. Clemons advised the well drilled on the Phinney property only produces approximately 4 to 6 gallons per minute, which certainly could not be considered a community water supply. If the Authority was constructing a water supply system to meet municipal authority standards, Mr. Clemons noted it would require running an 8 inch pipe from the existing Phinney residence, five hundred feet out to Bypass Road. There would have to be a water main installed on the frontage of Bypass Road in order to be available when the theoretical waterline was connected and it would also have to be connected to dry fire hydrants. Section 513 of the Ordinance states that a community water supply system must be provided if mandated by the Board of Supervisors. Therefore, Mr. Clemons is asking the Board to reconsider, in light of the fact that it is highly improbable that any of these improvements would ever really be used by the Township.

Supervisor Fox commented the Ordinance was passed in 1987 because of the water problem in this Township. The Delaware River Basin Commission is presently conducting a study, hiring the U.S.

Geodetic Service to test wells in the area to determine if the limit has been reached where we must go from surface water to ground water. Supervisor Fox noted a Hilltown resident on Rickert Road ran out of water today, and he believes there is a trough of depression in that area. Whether the subdivision is three lots or thirty three lots, Supervisor Fox stated water is being drawn from the ground and there is less recharge area.

Mr. Clemons commented he is not requesting that the Board ignore and not follow the Ordinance. The Ordinance, in two places, provides for waivers, and Mr. Clemons feels the Ordinance contemplates that there would be circumstances where it would not be appropriate to require all of these improvements.

Chairman Bennett would like more time to consider the proposal. Mr. Wynn advised the Board has until September 29, 1995 to act on this plan. Mr. Clemons would not be available to attend the regularly scheduled meeting of the Board of Supervisors on September 25th, and asked if he could be placed on the agenda for the September 11, 1995 Worksession meeting. Supervisor Fox noted the Township Engineer does not normally attend Worksession meetings. Mr. Wynn agreed to attend the September 11th meeting.

Mrs. Jane James and Mrs. Beth Creveling, both of Bypass Road, are neighbors and their properties are located adjacent to Mr. Phinney's site. Mrs. Creveling definitely experiences water problems, noting that she ran out of water today. Now that Mr. Phinney has proposed 3 acre lots in his subdivision, Mrs. James stated there will be more subdivisions in the area, and feels there may be public water and sewer required sooner than the Board might think.

2. Finkelstein Subdivision (Final) - Mr. Wynn advised the Planning Commission unanimously recommended final plan approve to the Finkelstein Subdivision, subject to the following:

- "Future development note" included on the plan must be revised to reference the Popiwny parcel as TMP# 15-11-26-1.
- As noted on the plan, Lot #3 must be conveyed into and combined with other lands of Manero, and Lot #2 must be conveyed into other lands of Popiwny; so as not to create separate parcels non-conforming to Zoning Ordinance requirements with respect to lot width, frontage, and area requirements.

Mr. Wynn noted this plan is a lot line adjustment and there are no new building lots proposed. The site is located on Orchard Road and Diamond Street, and the property has been subdivided

approximately three times in the past two years. The Board may recall that the plan proposes adding property to the rear of the Popiwny property, and to the rear and side of the Manero property.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to grant final plan approval to the Finkelstein Subdivision, subject to completion of the outstanding items as noted above.

3. Hilltown Crossings (Final) - Mr. Wynn explained this plan was recommended for final approval by the Planning Commission by a vote of 6:1, conditional upon the following:

- Ultimate right-of-way along the frontage of TMP #15-32-13-2 must be dedicated to the Township in accordance with Subdivision/Land Development Ordinance requirements, Section 403, and as offered by notation on the plans.
- Verification of final approval of proposed sanitary sewer facilities via execution of an escrow agreement with the Hatfield Township Municipal Authority must be accomplished.
- Verification of final approval and a payment of all water allocation fees must be received from North Penn Water Authority.
- Financial security/development agreements must be executed between the applicant and Township to guarantee installation of all required improvements.
- In accordance with correspondence from Lesser & Kaplin dated April 20, 1995, Hilltown Township will accept a contribution to the General Fund in the amount of \$150,000.00, which shall be offset by the actual design and construction cost of the sanitary sewer line to be constructed to provide public sewer service to properties north of the subject site.

Mr. Neil Stein was in attendance on behalf of the applicant. This plan received preliminary plan approval in April of 1995. The resolution of preliminary plan approval was subject to ten conditions. As was discussed at the Planning Commission meeting, all those conditions have been satisfied in the form of permits and approvals which have been granted by outside agencies, including PennDot, Department of Environmental Resources, the North Penn Water Authority, the Hatfield Municipal Authority, and the Bucks County Conservation District. The only outstanding condition at this point is the execution of financial security and development agreements, as well as a Deed of Dedication for the frontage on Rt.

309. Mr. Stein understands those documents will be prepared by the Township Solicitor, upon the grant of final approval.

Mr. Wynn explained the Hatfield Township Municipal Authority has indicated final approval of the sanitary sewers proposed on the plan, and the applicant must execute an escrow agreement with that Authority. Also, the capital contribution will be tied into part of the financial security/land development agreements.

Supervisor Fox does not feel the so-called "capital contribution" offered by the developer should be considered as such. Supervisor Fox stated it is a subdivision requirement of any developer, whether it is a four lot subdivision, or a large land development such as this, to provide sewer across their property to the neighboring properties on either side. Supervisor Fox is not certain how this became known as a "capital contribution," when it is obviously a requirement, according to the Ordinance. The applicant has agreed to provide \$150,000.00 which shall be offset by the design and construction, etc.. Supervisor Fox felt the Ordinance was very specific and stated every other applicant must abide by this requirement. Supervisor Fox quoted Article 5, Section 514, Public Sanitary Sewers, Item B, which states "The sewer line shall be suitably capped at the limits of the subdivision or land development, and the lateral shall be capped at the right-of-way. The sewer installation shall include the construction within the right-of-way or easement to bring the sewer to future connections with the public sanitary system." Supervisor Fox wondered why the applicant considers the \$150,000.00 a "capital contribution," when it has not been considered such for any other developer. Supervisor Fox noted that if the sewer installation costs \$100,000.00, the capital contribution will then be only \$50,000.00. However there is also the possibility that there may be problems while installing the sewer line, which will drive the cost of construction up, and will lessen the capital contribution. Supervisor Fox protested that the \$150,000.00 is not a capital contribution. One thing that the applicant is doing that Supervisor Fox does consider a capital contribution, is that the owner of the property will be financially responsible for the traffic signals and the maintenance of those signals, which will save the Township thousands of dollars. Supervisor Fox stated the applicant did provide for the cost and maintenance of the traffic lights without being asked, since the Township gave them conditional preliminary plan approval without making arrangements for the traffic signals. Mr. Wynn noted that statement is incorrect, the traffic signal cost and maintenance was a requirement of preliminary plan approval. Mr. Wynn advised the applicant has recently provided correspondence indicating they would pay for the installation of the traffic signals and the future maintenance of those signals. Mr. Stein commented the wording of "capital contribution" was unfortunate. The \$150,000.00

was not offered as a capital contribution, but rather as a voluntary contribution. Further, Mr. Stein stated the applicant did not, in any way, suggest that the contribution must be applied to any specific purpose. Supervisor Fox disagreed, commenting Mr. Stein is still insisting that it is a "contribution," however it is actually a requirement in the Subdivision/Land Development Ordinance. Mr. Stein did not agree, stating the monetary contribution was not a requirement in any Ordinance, it was strictly voluntary. The issue of whether or not sewer service would be extended to the property lines was never an issue. That was something the applicant always agreed to do, however if the developer merely extended it to the property line, it would have been of no use to the Township. Mr. Stein noted it would not have been adequate to service properties to the north by gravity. The Wolfson Group agreed to totally reconfigure the design and take it a different route, a route that was quite frankly more expensive for the development, but that was nonetheless necessary for the Township to service properties to the north. Mr. Stein believes Mr. Wynn could confirm that. Therefore, Mr. Stein stated, the applicant could have complied with Section 514, making no contribution whatsoever, but it would have been of no use to the Township. Besides the issue of the capital contribution, Supervisor Fox feels the Wolfson Group has done a fine job with this project.

Supervisor Fox stated there is a member of the Board of Supervisors who previously came to a meeting with a newspaper clipping concerning Falls Township. That newspaper clipping stated a developer gave Falls Township \$700,000.00 for recreation and off-site improvements. After referring to that newspaper article, the Supervisor said "We are going to get \$300,000.00 from the Wolfson Group. We are going to negotiate." Then, when negotiations began, with Supervisor Fox as the liaison, the other Supervisors accused him of talking to the fire company. The suggestion was to get a contribution of land from the Wolfson Group for the fire company and to obtain funds for recreational use. As the liaison, Supervisor Fox then discussed this matter with Mr. Wynn, who spoke to the Wolfson Group. The Wolfson Group's initial contribution was for \$50,000.00 to \$70,000.00. Supervisor Fox stated he was then accused by the remaining Supervisors of breaking the Sunshine Law by talking to the fire company, even though those two Supervisors spoke to members of the fire company at a banquet. Supervisor Fox noted that when negotiations take place, there does not have to be a law. The new law in the Municipalities Planning Code of 1992 states that you do not have to negotiate, the Township can discuss whether to take land or fees, or a combination of both. Therefore, negotiations are only necessary when there is not a law to back it up.

Supervisor Fox feels the Hilltown Crossings proposal is a fine plan

overall, though he is concerned with some things that happened with this plan, and the implied threats he personally has received, via phone and by mail. These threats make Supervisor Fox think there is something wrong with this plan, although he does not specifically see anything wrong with it. When you are being threatened, Supervisor Fox stated, you must suspect that something is wrong because the plan is being moved too fast. If Supervisor Fox ever discovers that any one from the Township, be it a board member or a commission member, has profited from this plan, he intends to bring the matter to the attention of the Attorney General.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to grant conditional final approval to the Hilltown Crossings plan, subject to completion of all outstanding items, as noted.

Chairman Bennett commented he is not aware of any inaccuracies at all in this entire matter, and does not understand Supervisor Fox's reference to that.

4. Bilt-Rite Land Development (Preliminary) - The Planning Commission unanimously recommended denial of the Bilt-Rite Land Development preliminary plan due to noncompliance with minimum requirements of Section 302.8, of the Subdivision/Land Development Ordinance as noted in the engineering review dated September 29, 1994; as well as inactivity by the applicant. Mr. Wynn advised the site is located on Bethlehem Pike, at the former Todd Motors property. The original plan was submitted in August of 1994.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to deny the Bilt-Rite Land Development Plan due to inactivity and noncompliance with minimum requirements of Section 302.8 of the Subdivision Ordinance as noted in the engineering review dated September 29, 1994.

5. A & T Chevrolet - Land Development Waiver - The Planning Commission unanimously recommended approval of the request to waive formal land development submission for A & T Chevrolet. The applicant is proposing to construct a 24 ft. wide by 45 ft. long addition to the existing rear yard accessory building in order to store new parts and serve as a paint drying room. Mr. Wynn advised the site is located on Bethlehem Pike at Rt. 152 and Highland Park Road.

Mr. Bruce Allen of A & T Chevrolet was in attendance to present the plan. Mr. Allen explained there is a quonset hut on the rear of the property to which he wishes to construct an addition. The proposed addition will contain a concrete floor and has been approved by the State. This will be a storage area for parts and

will also serve as a paint drying room. The applicant is requesting a waiver of land development submission. Mr. Allen presented an L & I approved plan for the 24 ft. by 45 ft. addition to the existing accessory building.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize a waiver of land development submission to A & T Chevrolet for the addition to their accessory building.

J. ENGINEERING - Mr. C. Robert Wynn, Township Engineer:

1. Schade Tract Subdivision - Mr. Wynn advised this project is located on Green Street at Rickert Road. On February 27, 1995, the Supervisors approved a motion requiring completion of public improvements by July 1, 1995. Several months ago, this Board approved a motion to extend the time frame for completion of public improvements until July 31, 1995. These improvements were originally required to be completed in 1991, though improvements at the site are still incomplete. Some work has occurred, however it was done incorrectly. Outstanding improvements include installation of driveway pipes, improvements to the roadside swale on Rickert Road, and installation of trees. There is a Letter of Credit which guarantees completion of these items. Mr. Wynn recommended the Board declare the developer of the Schade Tract Subdivision in default, notifying the bank who holds the Letter of Credit so that the Township can secure the funds necessary to complete the outstanding improvements.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to declare the developer of the Schade Tract Subdivision in default, notifying the bank who holds the Letter of Credit so that the Township can secure the funds necessary to complete the outstanding improvements as outlined by the Township Engineer.

2. Tel-Vil Subdivision - The site is located on Cherry Road and Cherry Lane. Improvements at the Tel-Vil Subdivision have been completed and the applicant has requested a reduction of the Letter of Credit requirements to 15% of the initial escrow amount, as well as commencement of the eighteen (18) month maintenance period. Improvements are satisfactory with the exception that overseeding/fertilization will be necessary along Cherry Road and within the retention basin during the fall of 1995, when weather permits. Further, the topsoil must be replaced, fine graded, seeded, fertilized and mulched on Clarion Drive along the right-of-way of Lots #2 and #4. Also, the right-of-way area along Cherry Road has some minor erosion along the frontage of Lots #9 and #10, which must be repaired, overseeded, and fertilized. Mr. Wynn recommends commencement of the maintenance period conditional upon

this work being accomplished.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize commencement of the maintenance period conditional upon the above noted work being accomplished, and to accept the completion of the public improvements for the Tel-Vil Subdivision.

3. Blooming Glen Mennonite Church - Work has been completed at Blooming Glen Mennonite Church. The required improvements included construction of a retention basin and installation of trees. Mr. Wynn recommends commencement of the eighteen (18) month maintenance period.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize commencement of the eighteen (18) month maintenance period for Blooming Glen Mennonite Church.

4. Hilltown Hunt - At the time of approval of the former Caroline Bergen Subdivision (now known as Hilltown Hunt), the municipal building did not exist. Mr. Wynn explained the municipal building was constructed with two entrances on West Creamery Road, with installation of stormsewer east of the site. At the time of the execution of Development and Financial Security Agreements for this site, there was language added to acknowledge the fact that some revisions were required to the approved plans in order to adjust the West Creamery Road improvements to accommodate the Township building and to address stormwater problems occurring at the entrance. Revised plans have been received for West Creamery Road from the applicant. The revised plans include extension of stormsewer from the inlet at the existing entrance along the frontage of the site to immediately west of the western-most entrance with an inlet. That pipe would then extend back to what is now the end wall, which will be removed and another inlet will be installed. Additionally, Mr. Wynn noted, the stormsewer in the entrance road had to be lowered. The original plan showed a sump pump at the Endslo property, and now in addition to the sump pump, there is a gravity drain. The plan also provides for a pipe to the well along the frontage of the Endslo property which has been overflowing, so that it drains into the stormsewer system. Mr. Wynn advised the roadway width on the original plan was 32 ft., however it has now been reduced to 28 ft., which is the Township's current standard for a curbed roadway without parking.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to authorize revisions of West Creamery Road to the Hilltown Hunt plan, as outlined by the Township Engineer.

5. Stonycrest Road Restoration - Perkasio Borough Authority

installed waterline in the Stonycrest Subdivision in 1994, however restoration of the road was not in accordance with their plan as submitted to Hilltown Township. Several months ago, this Board authorized Mr. Wynn to contact Perkasio Borough Authority regarding the restoration of Stonycrest Court and Millikan Court in that subdivision. After the subdivision was completed, the Perkasio Borough Authority installed an 8 inch waterline in order to loop the two cul-de-sac streets together. In doing that, P.B.A. had to excavate the finished roadways in the development. The plan submitted to the Township included the complete overlay of the turn-around in Stonycrest Court, along with a new wearing surface. Pursuant to correspondence from Andersen Engineering, the engineer for Perkasio Borough Authority, the Authority is requesting Township acceptance of the restored "patch." Mr. Wynn does not believe the work done was satisfactorily, explaining that in one of the trenches, the trench was not sealed; and in another trench, there is a seam separation from last fall which makes it obvious that the trench was not cut back. More importantly, at the time the work was done, Mr. Wynn believes the contractor was planning to overlay the entire cul-de-sac, and therefore the entire roadway contains significant gouges from buckets being run back and forth. Mr. Wynn would not recommend that the Township accept this work, stating it is a very poor job. The Supervisors recommended Mr. Wynn contact Perkasio Borough Authority to express concerns about the job site, and forward photographs of the damaged roadway.

6. Bethlehem Pike Business Park - Mr. Wynn advised this site is located on Bethlehem Pike. The plan previously received preliminary plan approval and the final plan has now been submitted for Planning Commission consideration. One of the conditions of preliminary plan approval is Planning Module approval by Penna. Dept. of Environmental Protection. Those Planning Modules have been received by the Township for the Board's signature so that they may be forwarded to PADEP. This project is proposed to be serviced by public sewer, and correspondence has been received from Pennridge Wastewater Treatment Authority, indicating capacity is available, though it is limited. This means that depending on how many EDU's are used on each lot, another lot might not have enough capacity. Mr. Wynn noted if capacity is insufficient on any lot, the applicant previously proposed an alternative plan with a lot temporarily being connected to a holding tank until sewer capacity becomes available.

Motion was made by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously to **adopt Resolution #95-41 for plan revision for the Bethlehem Pike Business Park, as required by the Department of Environmental Protection, to forward Planning Modules for review.**

K. RESIDENT'S COMMENTS: None.

L. SUPERVISOR'S COMMENTS:

1. Supervisor Fox is very upset about a recent decision by the Hilltown Township Zoning Hearing Board concerning the Pileggi property. This hearing was held on July 13, 1995. Supervisor Fox advised the decision was not dated when it was signed by the Zoning Hearing Board members. According to Supervisor Fox, this decision was signed approximately 2 1/2 weeks after the hearing date. Supervisor Fox noted the decision does not actually become law until the Zoning Hearing Board members sign it, since they can take up to 45 days to render their written decision. Supervisor Fox felt the Solicitor representing the Township at the Pileggi Zoning Hearing did a fine job, explaining that what Mr. Pileggi was attempting to do was add another business to his property located at the corner of Rt. 113 and Rt. 313. Supervisor Fox cited #89-6, which allows only one principal business on a property. Another issue Supervisor Fox wished to mention was that the thirty day time frame had expired. As a matter of fact, it was approximately five or six months after the 30 days that Mr. Pileggi came to the Zoning Hearing Board with the same proposal for which he was denied on August 11, 1994. Mr. Pileggi did not respond to that citation and was taken before the District Justice earlier this year, where he was fined the maximum of \$8,081.00 plus costs. Supervisor Fox advised the decision by the Zoning Hearing Board did not address the 1983 Ordinance which states that no shopping centers are allowed in the PC-2 Zoning District and also did not address #89-6 which allows only one principal use on a property. Mr. Pileggi came back every time the Township changed Zoning Officers, with the exact same proposal. Mr. Pileggi proposed the addition of a pizza shop, which included take-out and eat-in service. Supervisor Fox felt what Mr. Pileggi had was an E-1 with an expansion of the garden center nursery, on Permit #92-307. On April 14, 1992, Mr. Pileggi won the right to construct a 1,620 sq. ft. retail garden center with a 1,560 sq. ft. associated incidental greenhouse. Supervisor Fox felt that the Zoning Hearing Board should not have granted an E-1 Use because not all E-1 uses would fit in every area. After the Township won in court, Supervisor Fox noted Mr. Pileggi appealed it to the Bucks County Court where the matter is pending now. When the Solicitor advised that there was a case pending in court and that the 30 days had expired in May of 1995, Supervisor Fox believes the Zoning Hearing Board should have come forth with the knowledge that the 30 day time period had expired. Further, Supervisor Fox stated that a zoning permit was reviewed by the Zoning Hearing Board, and then the same zoning permit, which he believes was altered and returned to the Township, was again reviewed by the Zoning Hearing Board. The altered permit allowed an E-1 use with 1,620 sq. ft. of retail sales, however the part that stated "Garden center with a 1,560 sq. ft. associated greenhouse" had been removed from the zoning permit. The requirements on the Occupancy Permit, which allowed for E-1 Sales, 1,560 sq. ft.

garden center, had been removed from the permit when it was submitted to Mr. Nace, Zoning Officer. Supervisor Fox is shocked that the Zoning Hearing Board members do not listen to their Solicitor, and do not read and follow the law. Upon review of Mr. Pileggi's records, Supervisor Fox found that the same use, fast food pizza - eat-in and take-out, was denied in 1990 by Mr. Clarence Radcliffe, Zoning Officer; and also denied in 1993 by Mr. John Friel, Zoning Officer.

Mr. John Snyder, chairman of the Zoning Hearing Board, asked permission to respond to Supervisor Fox's comments. Supervisor Fox believed Mr. Snyder was out of order, and stated that he was not finished speaking. Chairman Bennett asked Supervisor Fox what the point of his statement is. Supervisor Fox replied he wants to have a public record of events with regard to the Zoning Hearing Board. Supervisor Fox advised he asked for the Pileggi Zoning Hearing to be appealed, however he knows it will not be appealed.

Supervisor Fox wished to note the following facts concerning the Pileggi Zoning Hearing:

- The 1983 Zoning Ordinance was in effect.
- The applicant operates a deli on the property, for which he has no permit.
- The applicant proposes to sell pizza and other food stuff in the deli and to provide three tables and chairs for his customers to consume their food purchases on the premises or off.
- There will be no waiter service.
- Applicant paid for and received a sign permit.

Supervisor Fox feels that the sale of pizza is considered "fast food", which is an E-6 use in the Zoning Ordinance. A fast food restaurant is an eating establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, for consumption within or taking it out of the restaurant. The Zoning Hearing Board decided the sale of pizza was an E-1 Use, because basically the tables and chairs were there for the convenience of the customers. A pizza shop is not allowed in that shopping center, which Supervisor Fox believes was overlooked by the Zoning Hearing Board. Supervisor Fox stated Mr. Pileggi built that shopping center when he shouldn't have. Also, it was adding another business, which is against #89-6, and it increased the size of the illegal shopping center. Supervisor Fox commented although the applicant supposedly presented evidence and testimony as to prior permits for an E-5 use, the applicant does not have an E-5 use permit. An E-6 Use allows fast food restaurants and defines a fast food restaurant as an eating establishment when the principle business is the sale of foods or beverages to the consumer in a ready-to-consume state for

consumption either within the restaurant building or for carry-out consumption off-premise. The Zoning Hearing Board found that the applicant's principle business is not the sale of food in a ready-to-consume state, rather the principle business is the sale of food in a not-ready-to-consume state, thus the applicant's proposed use does not constitute a fast food restaurant. Further, the Zoning Hearing Board found that an E-1 permit for retail stores in a PC-2 Zoning District states that retail stores may sell food stuffs. The Township concedes that both the existing WaWa and the existing deli are retail stores as defined by Section 405 - E-1, since they sell food stuffs and the Board finds that there is no prohibition in a retail store use. Supervisor Fox does not understand the logic of the Zoning Hearing Board, stating they did not look at the fact that an additional store was added or that an illegal shopping center continues to grow.

Motion was made by Supervisor Fox to appeal the Pileggi Zoning Hearing decision for the reason that there is \$8,081.00 due the Township for the unlicensed sale of deli products and pizza. There was no second to the motion. Motion failed.

By not appealing the Pileggi Zoning Hearing decision, Supervisor Fox feels it has "knocked the pins" out of Hilltown Township by not supporting our own Ordinances and stated the Township will lose the \$8,081.00.

To Chairman Bennett's knowledge, Mr. John Snyder asked if this matter has been appealed by Mr. Pileggi to the Bucks County Court. Chairman Bennett believes that is has. Mr. Snyder asked to be placed on the agenda of the September 11, 1995 Board of Supervisors Worksession meeting, in order to respond to Supervisor Fox's comments.

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

N. ADJOURNMENT: Upon motion by Supervisor Fox, seconded by Chairman Bennett, and carried unanimously, the August 28, 1995 Board of Supervisors meeting was adjourned at 10:03PM.

Respectfully submitted,



Lynda Seimes
Township Secretary