

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS  
REGULAR SCHEDULED PUBLIC MEETING  
MONDAY, SEPTEMBER 26, 1994  
7:30PM

The meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:38PM and opened with the Pledge of Allegiance.

Also present were: Kenneth B. Bennington, Vice-Chairman  
Jack C. Fox, Supervisor  
Bruce G. Horrocks, Township Manager  
Mary Eberle, Township Solicitor  
C. Robert Wynn, Township Engineer  
George G. Egly, Chief of Police  
Barbara L. Hefner, Administrative Secretary

Chairman Bennett announced we have an important order of business tonight to appoint a new delegate to the Pennridge Waste Water Treatment Authority.

Mr. Horrocks said he has a letter temporarily appointing Mr. Frank Beck as the Hilltown Township Water and Sewer Authority's Representative to the Pennridge Wastewater Treatment Authority, pending the recuperation of Mr. Thomas Wyncoop. If the Board desires to make this appointment we can get this letter signed and off to the PWTa meeting tonight.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox and carried unanimously to temporarily appoint Mr. Frank Beck as the Hilltown Township Water and Sewer Authority's Representative to the Pennridge Waste Water Treatment Authority.**

A. APPROVAL OF MINUTES: Action on the minutes of the August 22, 1994 Board of Supervisor's Meeting:

Supervisor Bennington noted the following corrections: page 2, fourth paragraph down; "Chairman Bennington" should read "**Chairman Bennett**". page 3, six lines down; "premiss" should read "**premises**". Page 4, six lines from bottom; "Mr. Heathering" should read "**Mr. Hetherington**". Page 12, third paragraph down; "timely" should read "**pungent**". Page 17, third paragraph down; "Supervisor Bennington was not singling out anyone in particular" **Supervisor Bennington meant the intent to be he was not singling out anyone in particular, but no one in the Township would receive preferential treatment**".

Supervisor Fox noted on page 3 and throughout, "Mr. Heatherington" should read "**Mr. Hetherington**".

Mr. Horrocks noted for the record on page 15, where Mr. Horrocks asked Mr. Matthews if the Zoning Officer asked him to sue the real estate agent. When Mr. Horrocks went back to the Zoning Officer Mr. Nace said he did not say this.

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**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to approve the August 22, 1994 Board of Supervisors Meeting minutes as corrected.**

Action on the minutes of the September 12, 1994 Board of Supervisor's Worksession Meeting:

Mr. Fox Noted on page 8, under Supervisor's Comments; "Wild" should read "Wile".

Supervisor Bennington said the following should be added to the fee structure of Parks and Recreation.

Mr. Lombardi said we have discussed at length and have had a committee that came up with a fee structure that is probably almost a year old. Once we have the park it will be easier to charge the fees.

Supervisor Bennington said East Rockhill is putting in a park and Deep Run is going to be able to use three fields with no charge. If you are going to charge these people, it is almost like you are driving your own Township organization out to use another Townships organizations fields for nothing. I have a problem with this. We will talk about this on October 13, 1994.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to approve the September 12, 1994 Board of Supervisors Worksession minutes as corrected.**

**B. APPROVAL OF CURRENT BILLING:**

Bills List dated September 27, 1994, for a General Fund total of \$19,010.46.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to approve the Bills List presented September 26, 1994 due September 27, 1994 subject to audit.**

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C. TREASURER'S REPORT - Mr. Bruce Horrocks -

Mr. Horrocks presented the Treasurer's Report with the following balances, as of September 23, 1994.

General Fund Checking Account	\$283,263.68
Payroll Checking Account	\$ 352.83
Fire Fund Checking Account	\$ 75,869.43
Debt Service Checking Account	\$134,460.11
State Highway Aid Checking Account	\$ 85,569.87
Escrow Fund Checking Account	\$141,628.45

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to approve the Treasurer's Report dated September 23, 1994 subject to audit.**

D. RESIDENT'S COMMENTS ON CONFIRMED APPOINTMENTS ONLY: None

E. CONFIRMED APPOINTMENTS:

1. Ms. Eva Pellow - Infill Lot Deed Restriction - Ms. Pellow of 603 South Perkasio Road is trying to find out what she needs to do to get the deed restriction removed from her father's property. She was sent to the PWTA to make sure she could get an EDU before anything could be done about the zoning. The PWTA told Ms. Pellow they would be issuing Hilltown Township additional hook ups if she could get her zoning problems straightened out.

Mr. Horrocks asked Ms. Pellow if Mr. Brown had spoken to her this week. Ms. Pellow replied someone from his office was suppose to meet her here tonight but I don't think he has arrived yet. Mr. Horrocks said this week our Solicitor's office and Mr. Brown had some conversation back and forth. Ms. Pellow said they told her they talked to Mr. Grabowski.

Ms. Mary Eberle, Solicitor said they talked to Mr. Grabowski and she suggested Ms. Pellow would be at a serious disadvantage if her council was not present. The issues involved in this matter are complex legal issues. It might be in the applicant's best interest to re-schedule her later in the agenda.

Mr. John Kurdock is here tonight on behalf of Ms. Eva Pellow. We are here looking for some guidance from the Board. Our particular problem concerns a lot located on 603 South Perkasio Road. This lot was created in 1977 in a Subdivision whereby the previous owner conveyed two lots to the adjacent owners. The plan had a notation on it saying that the lot was to become part of Mr. and Mrs.

Pellow's parents lot John and June. For some apparent reason the descriptions were never combined and the lot remained in separate ownership. The lot was assigned a separate ownership and was assigned a separate tax identification number by the County. In 1985 the Hilltown Township Water and Sewer Authority took a portion of this lot for a public well. Now Ms. Pellow has requested a building permit to construct a home where she would reside, in order to take care of her aging parents. Her mother is in a wheel chair and her father is sixty five. She would like to build a house close to her parents to be able to take care of them. Mr. Kurdock said he understands a sewer hook up may be available but we are confronted with this restriction in the 1977 Subdivision indicating that this is not to be a building lot. It is my further understanding that Mr. Horrocks has looked through the Township records and could not find any reason or any indication in those records as to why this restriction was placed on the original Subdivision. We are here tonight looking for some guidance as to what direction to follow. The lot otherwise conforms to the best of his information with the current zoning ordinance to be a building lot.

Supervisor Fox said he does remember when it happened, but does not remember what happened. He has looked at the plan from 1977, and on it is a utility type easement running up in the center of the plan. The plan is very specific and he does not understand why it was done, but it was done and the plan is registered in the County. Supervisor Fox said his only thought is it should of been combined with the Pellow property on the other side and with the Baldwin property. Mr. Kurdock said Mr. Pellow and Mr. Baldwin were the two adjacent owners. He understands the lot still remains as separate parcels. Then we have the intervening condemnation in 1985.

Supervisor Fox does not understand why there was a utility easement through there, seeing it did not happen until eight years later. The problem is this is what is registered.

Supervisor Bennington said the plan says an existing fifty foot access easement so that may have been there even before.

Mr. Kurdock said the existing access easement now serves the public well which was right in the middle of the lot. This leaves Ms. Pellow with approximately five acres, with the Authority having taken approximately one acre. Despite this Ms. Pellow is left with approximately five acres and would be able to erect a house there and still be in conformance with all the other regulations as they apply to this lot.

Supervisor Fox said whatever it was had to be in conformance and have had to have an agreement from Mr. Pellow. This agreement is registered on the plan. Somehow you are going to have to legally

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quash what is on the plan. According to Supervisor Fox this Board can't do that.

Mr. Kurdock understands that this is the issue. There is no dispute in this regard. As you say, in order to quash or remove or waive the restriction then where do we go and who do we request this information from. Do we request this from the Board tonight. Do we file an amended Subdivision plan some seventeen years later removing this. Supervisor Fox said this Board can't do anything about it, but maybe our Solicitor can give you some direction.

Solicitor Eberle said she thinks Mr. Kurdock is exactly right with the idea of filing a subdivision plan amending this subdivision plan. Whether you want to have the property re-subdivided or whether you want to remove the restriction that appears in the note. At this point a question comes back to the Board as to how thorough a review you would like to see. Solicitor Eberle's recommendation would be to send this to the Planning Commission and get a thorough review simply because you have other people who have been subsequent purchasers of the land within this subdivision who may or may not have purchased a reliance of that note. This may very well be a consideration in the review of the subdivision plan.

Mr. Kurdock said to the best of his knowledge when a portion of the lot was taken by emmint domain back in 1985 and a new plan was filed by reason of that taking that plan did not contain the restrictions on the 1977 plan. In essence we are taking a six acre lot reducing this to some five acres give or take without this restriction.

Solicitor Eberle said this is not the same thing. As you well know the condemnation proceeding did not go through the subdivision review process. If someone would walk into the Recorder of Deeds office and ask to see the plan on record for this particular property this is what they would get unless they cross index to the condemnation docket, the condemnation would not show on this plan. If there were going to be revisions on this plan this is where your client would have to begin.

Mr. Kurdock said we would have to take the property as it exist now which obviously is something less than six acres and resubmit that to the Planning Commission as suggested by Solicitor Eberle basically the same plan as the property exist now, with the only alteration being the deletion of the language as it applies to John and June Pellows lot only. The other lot really is not our concern. We are not here on their behalf tonight. We are here for Eva Pellow, the daughter who would like to build a house to be close to her parents. We need a starting point.

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Supervisor Fox said up until about five years ago you could get a rural exemption from your sewage if you have ten acres and a lot of that land is not perked. Therefore, people had to have a minimum to put any kind of an on site system on the property and that lot after it was subdivided being six acres so you didn't need it. Supervisor Fox said he would guess that is why they wanted it to go and be joined with the connecting lots.

Solicitor Eberle said if this is true then there would be a covenant on record somewhere at the County saying that this parcel has to remain or both of the systems would have to be repered not just the new one for your property.

Mr. Kurdock said at the time it was created there was already a house existing on that particular lot. He believes during the taking procedure it was explained to Mr. Pellow the only reason they were taking that particular lot was because it wasn't separate ownership which according to the notes on the plan should have never been that way.

Supervisor Fox said that may very well be but the six acre lot would of been under the minimum ten acres that was required to put a under rule exemption. That would be the only thing he can think of to be the logical thing to do. Supervisor Fox remembers we have done this with other homes.

Mr. Kurdock said what you are suggesting then is to amend the 1977 plan, submit the plan to the Planning Commission with a request that the restriction be removed as it applies to this particular lot. Then ultimately, it will come before the Board of Supervisor's.

Supervisor Fox said actually subdivide the part off that should of been joined, and was never joined with the neighboring property. So you will have to subdivide the property assuming that it was already joined. You will have to show it as a separate lot that you are going to have to cut off.

Solicitor Eberle said she agrees with Supervisor Fox. She thinks there is a merger issue here. This would all be taken care of by any subdivision plan. You could solve any merger problem that you might have as well as removing this restriction.

Supervisor Bennington said isn't any subdivision future plan a mute point if the adjacent owner who is affected says you have to abide by this. I'm not going to agree to anything. If this agreement was made in 1977 I'm abiding by this year.

Solicitor Eberle interrupted by saying that very well might be the case and that is something that can be explored at the Planning

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Commission level, the legal effect of the note and the submission of a plan without the note on it, also an investigation on Mr. Kurdock's part as to whether the neighboring property owners would have a problem with the removal of the note.

Mr. Kurdock said there are only two lots in this subdivision. Both are to be conveyed to the adjacent owners. There is no one who has purchased a reliance upon the subdivision.

Supervisor Bennington said the adjacent owners will be affected by this. The adjacent owners were affected by the 1977 agreement so they would be affected. The successor to Mr. Baldwin would be the person affected. Solicitor Eberle said and maybe initiate the Authority can claim they condemned in reliance on the existence of that note on the plan. So this will have to be investigated as well.

Mr. Kurdock said it was his understanding that the Authority condemned because this was a separate parcel. Mr. Kurdock said so you are suggesting we go to the Planning Commission with an amended subdivision plan dealing with the restriction as to the joined or the merger of the creative lot. Mr. Kurdock said he would have to submit a plan and have it reviewed on the next Planning Commission meeting on October 17, 1994. Mr. Horrocks said the deadline for the agenda of those meetings is the first Monday of the month.

2. Mr. Tom Cuff - Model Airplane Complaint - Mr. Tom Cuff of 11 Meadow Drive and Mr. Martin Renshaw his neighbor presented a problem to the Board that only effects the residents living on Meadow Drive. Mr. Cuff said there is a parcel of land behind our property owned by Mr. Sensinger who he has never met. Prior to our homes being built about eighteen to twenty years now Mr. Sensinger has allowed a group from Montgomery County who are radio control airplane enthusiast to fly on his property. They have been flying basically Saturday and Sundays. The agreement through a previous meeting with Mr. Renshaw, prior to Mr. Cuff's living in this area when some other residents met with the Board and Mr. Sensinger and came to an agreement where they would fly the planes only on Saturday and Sunday afternoons. Until about two and half to three years ago they pretty much held to the original agreement. Now they are flying Monday nights, Thursday nights, Saturday from 11:00am to 5:30pm or 6:00pm. They were suppose to keep to a tree line which is really the back of Mr. Cuff's property. They use this as their turn around point. Now they use my front yard as the turn around point which is 400 ft. beyond the tree line. This is like having a chain saw factory flying over your back yard. It is terribly noisy. Mr. Cuff has gone over there repeatedly and spoken to these people. They said they are really sorry and will try not to do this again. They still are not stopping. As recently as this past Monday they were out there again flying over the front



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of our homes to the other side of Meadow Drive. Mr. Renshaw has been up there as recent as seven weeks ago at which time Mr. Sensinger was there as well. Mr. Cuff has been over there a number of times himself. Nothing seems to work. In the past twenty years these planes are getting bigger and faster. They certainly are getting louder. Mr. Cuff has talked to them about the safety issue. When I was last over there about five weeks ago there was a plane sticking out of a fifty five gallon drum. The wing spans on these planes are about seven feet long. This is getting dangerous. Mr. Cuff would like to see Mr. Sensinger approached and asked to have these people move their operation further into his land. If he wants to allow them to fly there fine, but not over my house with my children playing there. There was a previous agreement with a previous Board and Mr. Sensinger and Mr. Renshaw was a party to that.

Mr. Renshaw said it might be the aging process but he is not quite sure what the agreement was. We are going back twenty years. Mr. Renshaw said what actually happened was we compromised. There were six or seven residents on Meadow Drive that met with a gentlemen from Glenside, who was President of this plane organization. The agreement as far as he recalls was Sundays after 12:00pm because of church. After this time they would fly approximately four or five hours and not more than two or maybe three planes up at one time. They would keep the planes over on their property. At that particular time we were having plane crashes on the other side of Meadow Drive, which is a good six to seven hundred feet away from the turn around point. They were getting beyond the radio communications at that point. The reason Mr. Renshaw went before the Board before was because he was almost hit by a plane himself. The issue is they simply are not abiding by the agreement. Mr. Renshaw thinks it was a verbal type of agreement. At this point it is getting to the situation where it is dangerous to the young children on our block.

Supervisor Bennington said he talked to both Mr. Cuff and Mr. Renshaw. After talking to them he called the Solicitor to check his records for any such agreement. Supervisor Bennington doesn't think there is a file on any such agreement. The agreement is basically an oral agreement that happen eleven years ago. The point here is if this gentlemen has a twelve acre piece of property which he obviously has and allows this group to use it, then the least that should be done is to stay on his property and not violate the air space of the residents that surround him. Supervisor Bennington thinks that the basic answer is to have the Zoning Officer go out and indicate to the farmer or whoever owns the property that we have a concern about him doing this and if he continues we will have to do something about it. Chairman Bennett said it is not only dangerous, but it is noisy and too frequent.



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Mr. Renshaw said this past Monday Mr. Cuff was splitting some firewood and he went over to help him. A wood splitter with a five horse power engine was running at the time. We said what is that and on a Monday night flying over the top of our homes was one of those planes. Mr. Renshaw said that on Monday these people told him that Monday was the day when they teach people to fly the planes. I don't think so. The agreement was Sunday, now it has spread to Saturday and now Monday. Every holiday they are there. Having peace and enjoyment in your back yard is out of the question any more. We plan to be away from our home a lot on the weekends.

Supervisor Bennington said to the Solicitor correct me if I'm wrong but we can possibly prevent the over fly of their property but we can't legislate the times that the owner, if he is going to keep the flying on his property, allows the planes to operate.

Solicitor Eberle said this is basically a true statement. One of the things you want to look into is whether or not there is any commercial aspect to this use or whether it is strictly a hobby. If there is no money changing hands, then you are limited to a noise violation. It trespasses outside of the zoning ordinance. That is not something the Township will get directly involved with although the police department may. At least the Zoning Officer can go out on the noise issue. If there was an agreement with the Supervisors and that is memorialized in the minutes from 1983 that would be just as enforceful as any written agreement. The Township will try to come up with that agreement.

Chairman Bennett said we will probably do both. We will follow up on the Solicitor's suggestion of checking the 1983 minutes. In the mean time we should send the Zoning Officer out. Chief Egly will go out some time after noon on Sunday to check on the flying.

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F. MANAGER'S REPORT - Mr. Bruce Horrocks, Township Manager -

1. Mr. Horrocks presented six escrow releases for the Board's approval this evening: All but one are Letters of Credit. Orchard Station is cash being held by the Township.

Country Roads/ Phase I	Voucher #32	\$ 9,900.00
Country Roads/ Phase I	Voucher #33	\$ 316.97
Orchard Station	Voucher #3A	\$ 415.98
Pleasant Meadows/ Phase III	Voucher #40	\$ 454.94
Telvil Corporation	Voucher #11	\$ 1,119.61
Telvil Corporation	Voucher #12	\$37,487.92

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox and carried unanimously to authorize the release of the above named authorization vouchers including one cash voucher for Orchard Station.**

2. Correspondence has gone forth from the Solicitor's office over to Dublin Borough's Solicitor regarding the Dublin water TCE bulk purchase of water. No response has been received from Dublin at this time but the two offices are in discussion trying to determine what kind of arrangement can be worked out.

3. The Township has received the 1994 Volunteer fire Association check in the amount of \$62,003.32. This represents an increase of \$4,484.26 over 1993. Sometime between now and the worksession Mr. Horrocks will be looking for the Board to come up with a solution on how we deal with any increase in the relief fund as to how it would be broken down. Mr. Horrocks will offer to the Board over the next few days straight percentage changes and what if we were to increase to a specific company. Mr. Horrocks was pleased to see the money substantially increased this year.

4. For the Boards information Mr. Horrocks said he would like to make them aware that on Thursday, October 6, 1994 at 7:30pm in the Township building we will be calling a meeting. Mr. Horrocks is requesting Boards approval to have the Solicitor and Engineer attend this meeting to answer any legal or technical questions that may arrive. The manager of the Telford Borough Authority and one of the Supervisors from the Bucks County Board of Health will also be there. The purpose of the meeting is strictly informational only for the residents of Hickory Street, Oak Street, and Central Avenue to the twenty two residences that have been cited by Bucks County Board of Health for failing septic systems.

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**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to have the Solicitor and Township Engineer attend the October 6, 1994 Meeting in the Township building as stated above.**

5. Mr. Horrocks has spoken with Mr. Ernest Piermani from Berkheimer Associates. Mr. Piermani and Mr. Horrocks have reviewed Solicitor Rice's letter which was brought up at the last meeting on this issue. Berkheimer has no problems what so ever dealing with items two, three, and four of the Solicitors letter. Item number one was strictly informational. Items two, three, and four were specific things the Solicitor requested be changed. Berkheimer has committed to Mr. Horrocks they will do either contract while agreeing with items two, three, and four. Once again Mr. Horrocks is requesting direction from the Board as to whether we are interested in the two or three year contract. Mr. Horrocks told Mr. Piermani he would get back to him and let him know which one to revise.

Chairman Bennett asked what the difference in cost was between them.

Mr. Horrocks said it is an approximation, but a ten year contract verses the three year contract over the ten year period comes out to a total net savings of \$39,824.00. This savings makes two assumptions. It assumes that the rate for the three year contract would remain at the 2.55% rate as it would for the first three years and not go up or down. It also assumes that EIT continues to increase yearly at the average historical increase we have had over the last five to seven years.

Supervisor Fox asked about the percentage.

Mr. Horrocks said a three year commission rate is 2.55%. A ten year is 2.50% and after the second year a base amount is established. As EIT increases over the base amount the increase over that base amount is at a far less percentage. The excess over the base amount starts out at 1.6%. It would begin on year four at 1.6% and end up in year ten at .8%. The excess that continues to grow by inflation and increased wages would be commissioned at a far lesser rate than 2.50%.

Supervisor Bennington said but the negativity is if you lock yourself into a long term contract and another service comes along and offers you a cheaper rate four years down the road, then your stuck for the next seven years after that. Supervisor Bennington prefers a three year commitment.

Chairman Bennett asked Mr. Horrocks if we would have an out on a ten year contract in case the Township decides to collect the wage

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tax itself. Chairman Bennett read recently where some other Townships are thinking of collecting the wage tax themselves.

Mr. Horrocks said the out that is written around the state changing through some sort of tax reform. The requirements of EIT or Act 511 taxes. There is no out in the contract whether Hilltown Township wanted to collect EIT instead of Berkheimer. The school district stayed with Berkheimer. Dublin signed for three years. Mr. Horrocks is not sure if anyone to date has signed for the ten years.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to sign the agreement with Berkheimer for three years at 2.55%.**

6. The Planning Commission has recommended that the Supervisors advertise the Zoning Ordinance of 1994. Mr. Horrocks suggestion to the Board would be to hold the public hearing on October 24, 1994 beginning at 6pm. This is the main meeting in October. There is not enough time between now and the next worksession to have the advertising and posting required on the Zoning Ordinance out throughout the Township. We could either do it at the main meeting in October on the 24th or the worksession in November. In either case for possible adoption at the November 28, 1994 meeting. Mr. Horrocks said we should post this out plus advertise it. The intent that Mr. Horrocks has is running off twenty five copies, three for the Board, one for the Solicitor, Engineer, a few other copies for internal use. He plans to make available for viewing for people who would like to come in and review, and then return within a forty eight hour period.

Supervisor Fox said he doesn't think this is a good idea to take it home. If they want to review it then let them do it here. Its not a good idea to let people take these things home. The problem is this is not an approved copy and in the past when things like this happened many did not come back. These unapproved copies would be floating out there in the public plus they would be free of charge.

Mr. Horrocks said we could print on the main page "DRAFT" and require a \$20.00 deposit which is more than the current Ordinance cost.

Supervisor Fox said in his opinion it is not a good idea. Supervisor Bennington said he tends to agree with Supervisor Fox. We should have copies available during regular office hours. Most of the people who will be reviewing the draft will be developers and they are available during the day time hours.

Chairman Bennett said he thinks people need time to view this. We

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have a lot of people that are away from home ten to twelve hours a day. They simply do not have three or four hours to come in and read it. Chairman Bennett said he likes Mr. Horrocks' suggestion.

Supervisor Fox said this is not a document that you are going to sit down and read from cover to cover. This is an immense document. People will be coming in for their own specific interest.

Chairman Bennett said he doesn't see a whole lot wrong with a deposit. How many people are going to want to pay \$20.00 or \$25.00 without coming back to get their money.

Mr. Horrocks said if the opinion of the Board is to keep it in house then he will make the draft available during regular working hours on working days. Mr. Horrocks would like to advertise for a hearing on October 24, 1994 at 6:00pm. The advertisement will include with it for possible adoption on November 28, 1994.

Supervisor Fox wanted to know why November 28th, why not the same night if there are no problems. Mr. Horrocks said we can include for possible adoption but his only concern is if people show up with a significant change requests. Mr. Horrocks is seeking authorization to advertise for a hearing and possible adoption on October 24, 1994.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to advertise for a hearing and possible adoption on October 24, 1994.**

Mr. Horrocks said the advertisement will be in this weeks News Herald.

7. Mr. Horrocks said there will be a joint public meeting between the Board of Supervisor's and the Hilltown Township Water and Sewer Authority this Saturday September 31, 1994 to address the reissue of Municipal Bonds.

8. Mr. Horrocks would like to try to come up with a date for road inspection in October. The only two good days are October 22, 1994 and October 29, 1994 which are both Saturdays. The mornings are usually best for Mr. Buzby. The Board decided to go with October 22, 1994 at 8:00am for road inspection.

9. Mr. Horrocks noted that after the meeting he had two sets of linens for the Supervisor's signature. Neither one can be released yet.

10. Mr. Horrocks said at the last meeting there was a discussion on a local non-conforming business that is a dog pound.

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Supervisor Fox said he has looked into the complaint about Holly Farms Kennel. Supervisor Fox said the only thing he hasn't done

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is go out to the kennel at night. The Ordinances allow pre-existing non-conforming to exist. After zoning was changed on this property Holly Farms Kennel had the entire property where all those homes are. Those homes were divided off so that the people who built those homes knew that the kennel was there. Supervisor Fox said he has also found and to Mr. Horrocks comment about the Zoning Officer, from what Supervisor Fox understands most if not all of what has been said with the exception that the dogs are let out at 6:00am in the morning, and they do bark when they want to be fed, most of what was said by Mr. Matthews is untrue as far as his research is concerned. Supervisor Fox will go to the Kennel at night a couple of times before the next meeting to see if he can hear the dogs barking. Supervisor Fox has found that the neighbors have dogs. Some of those neighbors leave those dogs out all night. Mr. Matthews also has a dog of his own. He checked into whether other police forces who leave their dogs at the kennel specifically Pennridge and Pennridge Regional might of left dogs overnight. One of Mr. Matthews complaints was that there were two dogs one night I believe it was on June 6, 1994 that barked all night. The record shows that no dogs were left that night overnight. Supervisor Fox asked if there were any questions from the Board. Chairman Bennett and Supervisor Bennington replied no.

F. CORRESPONDENCE: None

G. LINENS FOR SIGNATURE:

- 1. Gro-N-Sell
- 2. Dan Shannon

H. SOLICITOR'S REPORT - Ms. Mary Eberle -

- 1. Solicitor Eberle presented to the Board for adoption Resolution #94-30 for the Declaration of Easement for the Virnelson Subdivision.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox and carried unanimously to adopt Resolution #94-30 for the Declaration of Easement for the Virnelson Subdivision.**

- 2. Solicitor Eberle presented to the Board the WaWa Site Development Agreement for the Boards review. This agreement has been drafted in coordination with the engineer's office. Mr. Grabowski is recommending we execute the Site Development Agreement

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for the retention basin and the additional parking spaces that were required.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to adopt the Site Development Agreement with the WaWa Inc.**

3. Solicitor Eberle presented to the Board for review the Blooming Glen Mennonite Church Land Development. Solicitor Eberle has a General Utility Easement Agreement between the church and the Township. She also has the Land Development Agreement and the Financial Security Agreement, all of which have been signed by the appropriate parties.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to adopt the following motions for Blooming Glen Mennonite Church (1) Utility Agreement (2) Land Development Agreement (3) Escrow Financial Security Agreement.**

4. Solicitor Eberle commented on Solicitor Rice's Litigation Report for Berney Enterprises. Solicitor Rice made note that he made an inquiry into Commonwealth Court as to the status of Berney Enterprises. Berney Enterprises will be heard by the Commonwealth Court at their February List.

I. PLANNING - Mr. Bruce G. Horrocks - Township Manager -

1. William Hallman Land Development - The Planning Commission at their meeting on September 19, 1994 unanimously recommended a waiver of land development conditioned upon the following conditions. The additions and revisions to the existing features of the plan that was presented to them. The conditions were the building dimensions, zoning site data must be added, and building set backs all must also be added. The driveway widths must be indicated. The engineer certification must be signed and dated. The acknowledgement blocks for Township signatures must be removed from the site plan.

Supervisor Fox said there were a couple conditions not satisfied. The building set back, and the house out on Old Bethlehem Pike doesn't have the size of the house. The existing shed off to the right doesn't have the set back.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to waive the land development plan conditional upon the conditions as stated above are added to the plan.**

2. Jo-Meg Associates Land Development - The applicant is requesting a waiver of land development to add a twenty four foot



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square garage addition to a current garage that is existing on Cherry Lane where it meets Bethlehem Pike. The Planning Commission unanimously recommended approval of the land development waiver request. This site only very recently has gone through a complete land development.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox and carried unanimously to waive the site development plans for Jo-Meg Associates.**

J. ENGINEERING - Mr. Bruce Horrocks - Township Manager -

1. Stone Subdivision - This subdivision is a minor subdivision located on Fairhill School Road. It was required to install street trees which were subsequently installed and accepted eighteen months ago. The eighteen month period is expiring and all the trees are alive and well. Mr. Wynn recommends acceptance of the maintenance period and release of the balance of Escrow Funds to Mr. Stone.

**Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the end of the eighteen month maintenance agreement for the Stone Subdivision and the release of the balance of the funds.**

2. Pleasant Meadows Box Culvert - All the construction requirements have been accomplished. Mr. Garis has provided a Letter of Credit to guarantee the maintenance of the Box Culvert and channel work for eighteen months. Mr. Wynn recommends the release of Escrow Funds to Mr. Garis subject to the rails being installed by September 26, 1994. This was the absolute last item on this bridge. The rails were delivered and were there, but did not fit. At this point Mr. Wynn recommends to the Board to release all but the ten percent requirement upon completion of the rails being installed completely.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to release all but the ten percent requirement upon completion of the rails being installed completely.**

Supervisor Bennington asked what happened with Mr. Pileggi and the Phinney Subdivision with the Planning Commission.

Supervisor Fox replied Phinney came in and did not have his water report. Supervisor Fox said it was his understanding it was not done when it was suppose to be because there was so much water sitting in the field they couldn't get in. Nothing happened with the Phinney Subdivision. Mr. Horrocks said an extension has

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already been received.

With the Pileggi Subdivision the applicant asked for an E5 to put in a pizza place. They have a shopping center which they created since zoning. They have been expanding on this shopping center. They are adding another store and want to put the pizza place in the garden center. Right now without permits and no U&O. They just received permits last week. For electric and plumbing they have had someone in there for at least six months without permits. They are in there without a U&O selling ice cream and produce. The Planning Commission felt and since the only thing that was being asked was to change an E1 to an E5 and actually pizza is an E6 so that was incorrect, that they would deny it. They dealt with what was on the application not what was in the records. Mr. Pileggi was actually asking permission to add another store up and above and shopping centers are not allowed in the Ordinance 89-6 states one principle business on each property and Supervisor Fox believes there are at least six or seven on that property right now. Supervisor Fox thinks the Zoning Officer should go out there and see what businesses are actually there without permits and what apartments are there without permits. If there are no permits for those property then we should take proper action.

Supervisor Bennington said wasn't the Zoning Officer already out there.

Supervisor Fox said he was out there about a month ago but it changed. They already lost the computer center. Supervisor Fox would like authorization for the Zoning Officer to go out and find how many unregistered people with the Township are living in that house. This has been ongoing since 1987.

**Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize the Zoning Officer to go out and check out the situation as stated above.**

Mr. Horrocks said there was one more Escrow Release which we were trying to get packaged for your packets but we didn't get this done in time. The Escrow Release is for \$5,000 to come from Telvil which was a contribution in lieu of road improvements. That contribution which was agreed upon at that time was to put a backstop up at the park for the Township. The backstop has been completed and a bill has been received in the amount of \$6,115.00. The Escrow Release will be for \$5,000.00 and the \$1,115.00 will be coming from the capital bond for park improvements. On a separate issue Mr. Horrocks is asking for a motion to approve the Escrow Release from Telvil for \$5,000.00. for the backstop at the park.

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**Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to have \$5,000.00 taken from the Escrow Release and paid directly to the contractor and the \$1,115.00 to be paid by the Township's capital bond issue for park improvements.**

K. RESIDENT'S COMMENTS: Bill Gartner, of Green Street questioned the Board on whether a permit for Small Games of Chance was approved for this municipality. Solicitor Eberle said it was a County issue. Each municipality has the right to reject it or to accept it on their own merit. Solicitor Eberle will check into this.

Chairman Bennett said maybe we can give you an answer at the next meeting.

Mr. John Kachline of 529 Mill Road has a problem with a neighbor that wants to target shoot in his back yard at all hours. It would be nice if the bullets would stay in his yard but they do not. They come across our property and into our neighbors and probably continue on for another half mile or so. This has happened three or four times within the last month. He will be out there anywhere from an hour until three or four hours.

Almost every shot he has heard, you can hear the bullets going through the under brush. Just Friday night when my wife and I took a walk, the back of their property butts into the side of ours. We walked back through there and he started shooting. He only shot twice. I don't know if it was because he knew that we were there or not. You can also hear the shells bouncing through the weeds. Mr. Kachline said he doesn't know what we can do about it. The police say there is no ordinance against the discharging of firearms in the Township. Maybe it is time to look at an ordinance. Mr. Kachline doesn't feel he should have to stay in his house for the two or three hours while his neighbor is out there shooting. Other Townships he believes have such an ordinance. There is also various types of ordinances. Mr. Kachline thinks there is one ordinance that states you can shoot a shotgun but you cannot shoot a rifle or a pistol. This is something that the Township should start looking into. We shouldn't wait until someone gets hurt. Mr. Kachline was really disturbed to learn there was nothing the police could do because there is no ordinance. The police suggested we come before the Board and try to get an ordinance or to see if there was another way around this. Mr. Kachline really hates to see an ordinance because he himself likes to shoot a gun. He assumes most of the people in the Township do. If people are not going to have enough common sense to build a dirt backstop, or to build some kind of trap so there is no possible way for the bullets to go across other peoples property, then there is nothing else we can do. Mr. Kachline is

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not aware if this has ever been addressed before or not. If it has been addressed before then he wants to bring it up again.

Supervisor Fox said he was an expert at this sort of thing. The state law has to be abided to when people are allowed to fire on their own property. They are allowed to target shoot. They must have a backstop. This person is guilty of reckless endangerment. He is not controlling his weapon. There have been other Townships that have tried to stop this and have not succeeded. They have been ruled against by the state. To stop everyone would be impossible as long as hunting was allowed and the game commission and the law allows it. If this person is that callas some legal criminal type of complaint can be made against him. You would have to have proof and witnesses.

Supervisor Bennington said to Chief Egly if you advised them to stop and they didn't what would you arrest them on. Chief Egly said it is a state law. The charge would be reckless endangerment.

Chairman Bennett said as he understands this it started in West Rockhill a couple of years ago. Then he heard New Britain Township did adopt some regulation or ordinance on this.

Solicitor Eberle said Bedminster did also.

Mr. James Wolstenholme is also here with the same complaint. Chairman Bennett said he can verify to what these gentlemen are saying. He lives across on the next hill, and for the past month the shooting has gone off several days a week. He didn't know exactly where it was coming from. You would think it was an automatic gun of some kind because the fire was so rapid and so noisy. Chairman Bennett received a call on Friday night.

Mr. Wolstenholme said he couldn't go out his back door because you could hear the bullets ricocheting across the property. He called the police on Wednesday. The police told Mr. Wolstenholme they would go and check it out to see if there was a proper backstop. He assumes they did. On Thursday it happened again, and he called the police again. The officer went out and stopped at the house and said they did not have the proper facility to shoot. They were advised to have the proper backstop or stop firing the guns. When it happened again on Friday Mr. Wolstenholme really got upset and called the police once again. Then he called Chairman Bennett. He was told that if they discharge fire arms again they would be arrested for recklessly endangering other people. Mr. Wolstenholme is also aware of the fact that there are other Townships that do have ordinances that say no discharge of firearms. Warminster has adopted such an ordinance. He also knows there are other laws that could be adopted that say no discharge of solid shot tiles that would make our area strictly a shot gun area.

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Chairman Bennett said it is a shot gun area as far as hunting is concerned.

Solicitor Eberle said the state game commission has regulations in effect for hunting. Those regulations do not apply to shooting when you are not hunting, so some of the local municipalities have adopted ordinances. The Solicitor doesn't think is comparable because Warminster is a much more densely populated municipality and you would have a very difficult time passing an ordinance saying you couldn't discharge any firearm. New Britain and Bedminster have adopted ordinances regulating the discharge of firearms for target shooting or other purposes. They require a certain amount of distance from an occupied dwelling. If your going to get closer than those distances specified permission setbacks from property lines and matters of that thought is required. New Britain Township Ordinance was challenged. That challenge went to a State of Appellate Court where the ordinance was upheld. Solicitor Eberle said you can regulate this. Solicitor Eberle said when Bedminster advertised their ordinance for adoption there were quite a few more people that showed up than the five that showed up in Hilltown. It was an item of intent interest among the residents. Most of the residents did not have any objections once they realized that it didn't mean you couldn't shoot within 200 ft. of your own house because obviously you would be getting permission from the property owner, and if their backstop was within 75 ft. of their neighbors and the neighbor didn't have an objection to it again, that would not be in violation of the ordinance. Then, there are the obvious exceptions you would want to put in an ordinance of this type. The Raccoon is usually the kind of animal that would be exempt from the ordinance. Solicitor Eberle believes the language in most ordinances is rodents.

Supervisor Bennington said to the Solicitor so you are recommending if we develop an ordinance it would be upheld at the state court level depending what we had in it. If we had what New Britain had then obviously it would be upheld. Solicitor Eberle replied yes. Solicitor Eberle said the memo she presented to the Board had a copy of the New Britain case.

Chairman Bennett recommended we discuss this further with the Solicitor and our police department and review the material we received tonight. Then we can see what we can do in terms of what is legal and what will stand up in court. We should have an answer for you in approximately four weeks.

Mr. Joseph Miketta Jr. was wondering since the Supervisors do not want to have copies of the new Zoning Ordinance available to take home is there any way we could get a list of the changes.

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Supervisor Fox said it would be almost impossible with the format we have. We had hired someone seven or eight years ago and he changed the entire format. Things were moved around and dropped out and added. There hasn't been many major changes. There have been a lot of minor changes where we have corrected spelling, typing errors, and instances where the meaning was not clear, and by adding a word or sentence was made clear. Basically there haven't been that many changes. For instance, you had to have three acres to have a horse in the Township. With ten acres and under you could have two horses per acre. We made a change in this by saying on three acres you could have two horses and then for every acre after you could have two horses or 25 chickens or so many cattle up to ten acres, and after that you could have as many as you want. Supervisor Fox is aware of the change that Mr. Miketta is talking about. It still allows 50,000 sq. ft. unless you do not have a public water system. When a public water system comes in that recharge area, the rest of the 50,000 sq. ft. can be subdivided or sold off.

Mr. Miketta said Supervisor Bennington told him the only people that might be interested in the changes would be developers. Supervisor Bennington said you might have specific questions and he doesn't disagree with coming up with a list of changes. He doesn't have a problem with this.

Supervisor Fox said he doesn't know how we are going to do this.

Supervisor Bennington said you went by a list of changes by everyone who submitted changes. Supervisor Fox said he was working on it for seven and a half years. Supervisor Bennington said well major changes, you went to three acres unless there is water. That is 50,000 sq. ft. This is a major change. Supervisor Fox said this is the only major change that he can think of.

Supervisor Bennington asked Mr. Miketta what he was interested in. Mr. Miketta heard that the in-law apartments were going to be changed.

Supervisor Fox commented you hear real fast. You have a connection to this Township. Mr. Miketta said he reads this sort of thing. These are things that people might be interested in. If they do not know that they are changing they will not come to the meetings because they figure there is nothing happening. Supervisor Fox said the only difference in the in-law apartments is that we find that 95% of the in-law apartments were never in-law apartments or no longer are and are being rented out. We do not know who is living there and those people are not paying taxes. The only change that we have made and it has been made elsewhere way before we did it, is if you have a relative living on the property you

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ought to share a common kitchen. This is the only change.

Mr. Miketta said he doesn't know what all the other changes are. Supervisor Fox said well you will have to ask me. He can't remember all this. Mr. Miketta said sometimes people do not realize changes are taking place and so they are not interested in coming to the meetings.

Supervisor Bennington interrupted Mr. Miketta and said when a Supervisor makes a mistake like he apparently did this evening about not letting people view this document, he is going to change his mind and he has this obligation to do this. Supervisor Bennington said he is going to make a motion to revise his original motion and allow a copy of the document to be released to an individual who wants to take it home for a \$20.00 fee. It was a mistake on his part and he is rectifying this mistake.

Supervisor Fox said you actually believe someone is going to sit down and read the document when it is three times as large as the old ordinance.

Supervisor Bennington said Mr. Miketta is one person who has come in and heard rumors about different things that are going to happen. Supervisor Bennington said he doesn't even know if it is true or not. He hasn't even looked at the Zoning Ordinance. Supervisor Bennington has time to look at it at home. Mr. Miketta doesn't because he can't take the document home.

Supervisor Fox said Mr. Miketta has another concern he is really interested in.

Supervisor Bennington said it is not just him so don't single out Mr. Miketta.

Chairman Bennett said there seems to be another question on the same subject.

Mr. Les Lombardi said you do have the ability to zerox copies of paper. If there is a particular section in the Ordinance that you are interested in you would just make notes five or six pages, zerox them and you'll have them. This is available for any document that you could look at in the Township. Mr. Horrocks noted this was available at a cost of \$.50 a page. Mr. Lombardi said but still if Mr. Miketta was interested in in-law apartments, this is two pages. Mr. Horrocks said the document is around 184 pages.



Supervisor Bennington said if he made the motion to revise the original motion, stamp it draft, charge \$20.00 as a deposit, take it home and a lot of people will do that. This is the right of the Hilltown resident.

**Motion was made by Supervisor Bennington, seconded by Chairman Bennett, to revise the original motion, stamp it draft, charge \$20.00 as a deposit, to take the document home. Motion carried 2:1:0 with Supervisor Fox voting nay.**

Mr. Miketta said he just wants to bring up one issue again that Supervisor Fox brought up. He is at the point that he doesn't really care anymore. Mr. Miketta said he has done everything he needs to do now to get a 50,000 sq. ft. lot. In my opinion it is up to everyone else to fend for themselves. As a Hydrologist he really has some basic problems with the basing of lot size on old reports. Mr. Miketta has gone through all the Intex studies. He also went through the Rooney Report that Supervisor Fox worked on. Mr. Miketta also participated as a member of the review committee in the new study that was done by the U.S. Geological Survey for the Delaware River Basin in Bucks County. Mr. Miketta really doesn't think the studies that Intex has done over the years and what you are basing the law on is valid anymore. Mr. Miketta said he doesn't care anymore. He thinks you are moving in the right direction. Going from five acres to three acres is essentially what the new law is going to be doing is a good idea. The question he has is whether or not this has gone far enough based on new information that is available. The science of Hydrology has really advanced since this study was done by the DRVC back in 1982. We starting to incorporate new ideas and new theories into what is going on with the ground water supply in Bucks County. Mr. Miketta feels if you are going to make a new ordinance maybe some of these things need to be addressed.

Supervisor Fox said do you know how many times you have been before the Planning Commission and this Board with the same thing. Your hands are not totally clean. You have a lot that you are trying to subdivide and get someone to subdivide it. In a way you are a developer. You are selling to a developer. Supervisor Fox just wants to make this clear because Mr. Miketta has been before us and the Planning Commission many times. Your neighbors are running out of water. This is the worst area in the Township.

Mr. Miketta said he is not sure he agrees with that assessment of it either. He doesn't care anymore. He feels we are moving in the right direction. Some of those things you are basing your opinions on may no longer be valid. Things change in ten or fifteen years. Mr. Miketta asked Supervisor Fox if he read the report that was done by the Consortium of Bucks County Government. Supervisor Fox said he read the one along the river. The one they did from

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Buckingham, Middletown on up to Tinicum Township, Durham, Princeton. This is what I read in the newspapers. Mr. Miketta said you should read the report, not the newspapers. Supervisor Fox said he hasn't seen the report. He asked Mr. Miketta if he had gotten the report. Mr. Miketta said yes, he was on the review committee for the report. Again, your not going to change your mind, and that is why people do not go to the Planning Commission Meetings anymore sometimes because the decision is already made. It is always voted seven to nothing and nothing ever happens.

Supervisor Fox said he was going to correct Mr. Miketta. We have been working on this, and your area is considered to be the worst area. You had five acres and enough people got to my colleagues where they decided they wouldn't go that way because they could of been challenged in court. Supervisor Fox doesn't think we are going to be challenged in court on the three acres if you do not have public water. He is not saying you have to have three acres in your area. If you do not have public water your going to have to recharge, and you do not believe in recharging.

Mr. Miketta said he doesn't think he said that.

Supervisor Fox said he thought that was what Mr. Miketta was going to say. Mr. Miketta really wishes that Supervisor Fox would read that report. Supervisor Fox stated he will get hold of a copy and read it.

Chairman Bennett said if he doesn't get hold of a copy, he suggests Mr. Miketta send him one. The copies of the ordinance will be available by the end of this week. Mr. Miketta said another problem he has is when you advertise these hearings do you always do this in the same newspaper.

Mr. Horrocks said this was a public meeting. This was all that is required by the MPC. It was an advertised public meeting. Mr. Miketta said the advertisement didn't mention the hearing about the new ordinance.

Chairman Bennett said our meeting hasn't been advertised yet. We just authorized it this evening. Mr. Horrocks said the advertisement appears under legal notices. We generally try to advertise in the News Herald.

Mr. Miketta said the reason he didn't show up for Planning Commission meeting was because he didn't see the ad. He said he may not of been looking at the right place in the newspaper. Its hard to get to hearings if you don't know about them. If the ad was in the newspaper he apologizes for not seeing it. Mr. Miketta asked if we will make sure to get this one for the Supervisor's in the newspaper.

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Mr. Horrocks said far more than that. We will post any zoning line changes.

Supervisor Bennington asked the secretary to go back on the notes to when Supervisor Fox said something about when certain forces got to our colleagues.

Supervisor Fox said would you like me to state it to you. Supervisor Bennington said yes, he would like Supervisor Fox to state it again. Supervisor Fox said he will try to make it word for word. Supervisor Bennington said I would hope you would.

Supervisor Fox said we had five acres and three acres and people talked to this Board, members of this Board and there was a meeting held and our Solicitor was there, the engineer, and the fellow from Intex was there, Supervisor Bennington interrupted by saying that was not your whole statement before. Your changing your statement to reflect something different. Supervisor Fox said he was just giving the background. Supervisor Bennington said he does not want the background he just wants the statement. How do you prove that we were influenced by outside forces. Supervisor Bennington asked Supervisor Fox to prove this. He wants Supervisor Fox to tell the people in the audience and for the public record how he knows this to be a fact. Supervisor Fox said because you didn't just pick it out of the air. Supervisor Bennington said you are not answering my question. Supervisor Fox said I am telling you. Supervisor Bennington said you are not telling me anything. You haven't proven anything. Supervisor Fox said I can't prove anything. Supervisor Bennington said then do not make the statement or retract the statement. You are making an illegal statement slandering both myself and the Chairman of this Board. Mr. Bennington asked the Solicitor if this was correct. The Solicitor Eberle suggested she give advise privately on this issue. Supervisor Bennington is making a statement that he wants that particular statement retracted and if Supervisor Fox is not going to retract this statement, he is making a statement out of the blue that has no knowledge for your base. Supervisor Bennington said you have no knowledge for that statement you are making. Supervisor Bennington said to Supervisor Fox you are making a wild outlandish statement.

Supervisor Fox said his wild outlandish statement brought all the people together at that meeting, a special meeting that he did not know they were coming to.

Supervisor Bennington said he was asking Supervisor Fox to prove what he just said. You haven't proven what you just said. Supervisor Fox said he is proving it according to circumstantial evidence.

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Supervisor Bennington said he doesn't want to hear your circumstantial evidence. Then don't make that kind of statement if you do not have anything to back it up. You made a statement earlier this evening about Mr. Matthews that everything he said is untrue. How do you know everything he said is untrue. If Mr. Matthews comes in next week he is going to ask you the same question.

Supervisor Fox said you do not hear. Supervisor Bennington said he hears perfectly well, he can't see but he can hear. Supervisor Fox said he said most everything Mr. Matthews said is untrue, so you don't listen.

Supervisor Bennington said he certainly heard what Mr. Fox said, he is not going to repeat himself one more time. If you are refusing to retract the statement you made then that statement is simply untrue.

Chairman Bennett asked Supervisor Fox if he wanted to retract the statement.

Supervisor Fox said he did not wish to retract the statement that you knew ahead of time and you were talked too.

Chairman Bennett said to Supervisor Fox his statement was plainly untrue. You have no proof, I had no influence at all in this particular case.

Supervisor Fox said that is why the man from Intex was there, and the engineer was there and everybody was there to disprove this five and three acres. You just let anybody come to your meetings, do you Mr. Chairman. Chairman Bennett replied the meetings are open to the public.

Mr. Miketta said he doesn't want to get on Supervisor Fox's case but he kind of resents the fact that he is a fourth generation resident of this Township and when he tries to bring these things up to Supervisor Fox he resents the fact that Supervisor Fox tells him he has vested interest. Everyone has vested interest in the Township. Mr. Miketta said he can present his views just like everyone else can.

Supervisor Fox said yes, but you said you were not a developer. Mr. Miketta replied well he was not. We spent \$30,000.00 while trying to get a 50,000 sq. ft. lot off the farm which we have owned for almost a hundred years now. Supervisor Fox said that has all been approved. Mr. Miketta said yes, but there are other people out there that might want to do the same thing. You have to make sure they know about it. This is my opinion.

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Chairman Bennett said enough, he cannot consider Mr. Miketta a developer. He might eventually become a developer but splitting off one lot on a hundred acres or there about we certainly cannot consider him a developer. You do not work in that field.

L. SUPERVISOR'S COMMENTS: Supervisor Bennington said he doesn't want to sound like a broken record, but he is upset with UGI Gas Company. He has spent two meetings mentioning the fact there is going to be a problem some day. They still have not fixed the line in any way, shape, or form. He would like authorization from the Board of Supervisor's to send a letter to UGI explaining the Board's displeasure with them for not taking care of the problem, so that it is on the record in case something and God forbid something should happen down the road that their is an official document filed by the Township with UGI stating the problem and what we tried to do and if God forbid something happens the heirs of the people's homes in fact do blow up will have recourse.

Chairman Bennett asked Mr. Horrocks if it would carry more weight if the Solicitor's office took care of this. Solicitor Eberle said she always thinks its better to use your Solicitor. She said her recommendation would be that the letter should be signed by the Township but it would be well advised to at least have the Solicitor's office look it over to make sure all the possible contingencies have been covered that you would like to bring to their attention. Mr. Horrocks will take care of this.

Supervisor Bennington said two weeks ago the Park and Recreation Board was in before the Supervisor's Worksession discussing all the things they would like to do before the end of the year. If you remember his motion he gave them pretty much carte blanche to do all those things to make the park the way we wanted the park to be from the very beginning and start to do it now and finish it before the end of the year, so that when spring comes the park would be able to be open for the Township residents. In two weeks Supervisor Bennington hasn't really seen anything happening. He was wondering how we were progressing and will we in fact be able to do this before the end of the year.

Mr. Horrocks said upon advice from the Solicitor's office he has run into difficulty with two basketball courts. We will have to bid them because each one is over \$8,000.00. Over \$10,000.00 we have bid them. We could put one basketball court up in either site this fall without bidding. Mr. Horrocks thought that if there was a way with two different sites, we could split them up. Upon Solicitor Rice's recommendation he strongly suggested we do not split them because it is one bid. The only basis for this is that anything over \$10,000.00 we have to bid.

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Solicitor Eberle said the statue is written so that anything they can possibly lump together as one project they do. The only way to really get around this is to spread it out over a couple of years.

Mr. Lombardi asked if what we did two weeks ago was strictly illegal. Mr. Horrocks said no, they were put out to bid. Solicitor Eberle said without bidding it you have to come under the \$10,000.00. rule or split it up into subsequent years. Chairman Bennett said what you are talking about is the amount of time to send out the bids is what is going to delay it. Mr. Horrocks said he has been advised by the Solicitor's office if we go for two that it would be one amount totaling \$16,000.00. We would have to bid it. There will be a two to three week time process. Chairman Bennett said what you are talking about is the amount of time to send out the bids and everything else. This is what is going to delay it. Mr. Horrocks said no, P.K. Moyer, M&M Stone, and Blooming Glen Contractors all they are doing right now are roads for Townships and States and he couldn't get any of them to do it tomorrow morning at any price. They are very busy right now. Mr. Horrocks has met on the civic field at the site of the two tennis courts with that individual. He is ready to bring in stone immediately. He is ready to lay a base this fall. He is also ready to put a top coat on next spring at no cost to the Township. The Tot Lot bidding and all those things are already in process.

Mr. Lombardi said he can't believe that after two years we find out tonight that it has to go to bid.

Chairman Bennett said that is not new. The law has changed, it used to be \$4,000.00. We have a lot more flexibility than we did four years ago.

Mr. Lombardi said in the original plan we had put in the basketball court and did the same thing at Blooming Glen.

Supervisor Bennington said but that was one court and about \$7,000.00 which cost below the \$10,000.00 bid line. Supervisor Bennington said if it appears that this is going to drag on and on which do you prefer to have the basketball court first at Sterling Knoll. Do you prefer to do that now and that would not have to be bid because it would be less than \$10,000.00 and wait until spring to do the one at the Civic Field.

Mr. Lombardi said then we would have the problem of gaining access back to what we discussed a couple of weeks ago that area of Hilltown Township Civic because we want to finish off the front area.

Mr. Horrocks said if we do not spend the money on the tennis courts

we could in fact put the auxiliary parking lot in, in the spring.

Chairman Bennett said he doesn't think this type of issue has come before the Board since he has been on the Board.

Solicitor Eberle said the statute is very mandatory about combining projects. You can't separate them to avoid the bidding requirements. They have sections in there that say if anyone is found guilty of trying to divide things up to avoid bid requirements shall be guilty of a crime and the sentence is \$1,000.00.

Supervisor Bennington said this is why he asked which was more important. He thinks the bid process is going to take into November, December time frame when its going to be to cold according to the Farmers Almanac. If you go with one you know you are going to get one. Which one is more important. If you go with two you may not get either one. Supervisor Bennington said let us say we agree to do one at Sterling Knoll and sign a contract. At this point and time does that start a new clock up so we can then go out and sign a new contract.

Solicitor Eberle said the statute says within a calendar year.

Mr. Lombardi said we will have construction company in there two hundred feet from where we are going to build the basketball courts.

Chairman Bennett said to we are trying to comply with the law. He doesn't think there is going to be that much of a difference ordering two separately. We are not doing it for a price advantage, we are doing it to comply with the law.

Mr. Horrocks said it will be the same price.

Mr. Lombardi said we cannot do any of the improvements in the front, until all the construction is done in the back. So we're torn, do we want to do the one with the needed access or Hilltown Civic. We have a lot of positive comments coming to us saying something is finally going to get done. Now we find out tonight it has to be put out for bid. We were going to have the dedication Labor Day Weekend of this year and now we are talking about spring and possibly next summer for one of the courts.

Chairman Bennett said this could be as early as March or April.

Mr. Lombardi said in reality you know we are not going to get back in there in the spring.

Chairman Bennett said this is why we are saying do the one court now. Supervisor Bennington said do the one now and hold off



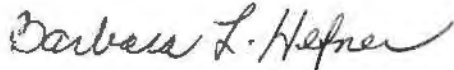
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Board of Supervisor's Meeting  
September 26, 1994

Sterling Knoll until the spring. He thinks this is the best alternative, instead of having to bid and wait for it, lets do it now.

Supervisor Fox said all they have to do is get the three phone bids from contractors.

**M. ADJOURNMENT: Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to adjourn the September 26, 1994 Board of Supervisor's Public Meeting at 9:45pm.**

Respectively submitted,



Barbara L. Hefner  
Administrative Secretary

2190A



# HILLTOWN TOWNSHIP

13 West Creamery Road  
P.O. Box 260  
Hilltown, PA 18927  
(215) 453-6000

September 26, 1994

Hilltown Township Water and Sewer Authority  
13 W. Creamery Road  
PO Box 143  
Hilltown, PA 18927

Re: PWTB Representative

This is to inform you that the Hilltown Township Board of Supervisors hereby temporarily appoints Mr. Frank Beck as the Hilltown Township Water and Sewer Authority's representative to the Penridge Wastewater Treatment Authority pending the recuperation of Mr. Thomas G. Wynkoop.

Mr. H. Bennett  
Frank Beck  
J. Carroll  
Hilltown Township Board of Supervisors

**BEFORE THE HILLTOWN TOWNSHIP  
BOARD OF SUPERVISORS**

**APPLICATION OF  
AWACS INC. D/B/A AS COMCAST METROPHONE**

The applicant, **AWACS, INC.**, doing business as Comcast Metrophone, has requested conditional use permission to establish a proposed F-1 utility use upon premises owned by the North Penn Water Authority, at Clearview Road, in Hilltown Township, and more particularly identified as Bucks County Tax Parcel Number 15-1-58-3. The said proposed use shall consist of a one story unmanned twelve foot by thirty-eight foot modular telecommunications equipment building together with an antenna to be attached to an existing water tank owned by the said North Penn Water Authority. The proposed utility use requires conditional use authorization pursuant to the Hilltown Township Zoning Ordinance of 1995.

The Hilltown Township Board of Supervisors advertised the conditional use hearing pursuant to the requirements of its zoning ordinance; and held a hearing at the Hilltown Township Municipal Building on Tuesday, September 5, 1995. Proof of Publication for the legal advertisement of said hearing is on file with the Hilltown Township office.

**DISCUSSION**

Pursuant to the Pennsylvania Municipalities Planning Code and the pertinent Sections of the Hilltown Township Zoning Ordinance of 1995, the Hilltown Township Board of Supervisors took testimony at a public hearing on September 5, 1995 on the application of AWACS, Inc. for the establishment and installation of a proposed utility use being a modular telecommunications building with the attachment of an antenna to an existing water storage tank owned by the North Penn Water Authority. Hilltown Township Supervisors present for the hearing included Chairman William Bennett, Board member Kenneth Bennington and Board member J. Carroll Fox. Additionally, Francis X. Grabowski, Hilltown Township Solicitor, was present as well as Wendy Rice, Board stenographer. The applicant was represented by Edward Wild, Esquire, and various representatives and witnesses of the applicant were present at the hearing to provide testimony.

At the hearing, multiple exhibits were introduced by the applicant and included the application, a site plan, the prior Decision of Hilltown Township of April 10, 1995

regarding a similar application of AWACS, Inc. in Hilltown Township, a lease agreement with the property owner, North Penn Water Authority, a photocopy of Hilltown Township Engineer's review letter concerning the project, a photocopy of a Federal Communications Commission license to the applicant, an engineering report by applicant's engineering consultant, a report by applicant's hired consultant of Bell Labs regarding environmental issues, and a resume of Michael Frank, applicant's land use and planning consultant. All exhibits introduced by applicant were accepted into the record of the matter and the Board of Supervisors heard testimony from Joseph Patti, the real estate manager of applicant. Additional witnesses testifying for the applicant included Scott Koenig, of Lapatka Associates, who is responsible for the preparation of the site plan. Additionally, Glen Estavitz, an engineering consultant, testified regarding the installation of the antennae to the existing North Penn Water Authority water storage tank. Alice Fahy Elwood, a health specialist with Bell Labs, testified regarding certain health and safety concerns; and Michael Frank, a land use planning consultant, testified regarding the current Hilltown Township Zoning Ordinance and the pertinent provisions under which the proposed use must be reviewed.

The Hilltown Township Board of Supervisors (the "Board") has reviewed the various legal cases in the Commonwealth of Pennsylvania, and has previously determined that a conditional use is one which the governing body has determined to be not adverse in and of itself. Under the Township Zoning Ordinance of 1995, F-1 utilities are permitted as a conditional use in each zoning district. The parcel of property subject to this hearing is currently zoned LI (Light Industrial) under the current Zoning Ordinance; and an F-1 utility use is permitted as a conditional use in said district.

The Board is also mindful of the fact that the existence of a conditional use provision in a zoning ordinance indicates generally that the use is consistent with the zoning plan of the Township. We are further of the opinion that we must grant a conditional use where the applicant has demonstrated compliance with the specific requirements set forth in our Ordinance. The burden is upon those who would protest the use to come forward with substantial evidence that the proposed conditional use, if created, would be detrimental to the health, safety or general welfare of the public. No testimony was given, nor did anyone appear to give testimony in opposition to the application. The Board is of the opinion that the applicant has demonstrated compliance with the objective standards of the 1995 Zoning Ordinance of Hilltown Township; and has adequately demonstrated that the proposed use falls within the given category specified within said Ordinance.

The evidence given and the exhibits accepted indicate that the appropriate and applicable conditions of the 1995 Zoning Ordinance have been met. Access to the site is safe; and no traffic improvements are necessary. Professional consultant Michael Frank gave testimony that the proposed use is compatible with surrounding existing uses; there is no glare and there is no disruption of existing uses. Additionally, the evidence

submitted by the applicant's expert witness regarding electromagnetic energy demonstrated that the maximum levels that would be associated with the proposed use would be at least 275 times below that of all applicable health or safety limits.

Based upon the testimony and evidence presented at the hearing, the Hilltown Township Board of Supervisors, following public discussion and due deliberation, makes the following Findings of Fact and Conclusions of Law.

### **FINDINGS OF FACT**

1. The applicant, AWACS Inc., submitted evidence of its ability and standing to make application to the Hilltown Township Board of Supervisors for conditional use application by submission of a photocopy of a lease agreement from the North Penn Water Authority. Paul Harmony, a staff representative of the North Penn Water Authority, was in attendance at the meeting; and the applicant entered into a stipulation with the Board regarding the ability of the applicant to use the North Penn Water Authority property located at Clearview Road in Hilltown Township and more particularly identified as Tax Parcel Number 15-1-58-3 to install a telecommunications building and to attach an antennae to an existing water storage tank of the North Penn Water Authority under and subject to the provisions of the Hilltown Township Zoning Ordinance of 1995.

2. The Board is of the opinion that the safety analysis performed by the applicant with respect to potential public exposure to radio frequency energy in the environment surrounding the proposed cellular installation is credible and meets all applicable health and safety limits required under Federal and State requirements.

3. The Board is of the opinion that access to the proposed site is safe; and that no hazardous traffic condition will be created.

4. The Board is of the opinion that the proposed use is compatible with surrounding existing uses.

5. The Board found the testimony presented by the applicant's expert witnesses to be credible and in support of the issue of the application.

### **CONCLUSIONS OF LAW**

1. Applicant's proposed use constitutes a utility pursuant to Section 406 F-1 of the Hilltown Township Zoning Ordinance of 1995.

2. The proposed use is a use permitted by a conditional use request within the zoning district within which the proposed site is located.

3. The proposed use meets the specific conditions for utility use as set forth within the Hilltown Township Zoning Ordinance of 1995; and also meets the general conditions for a conditional use application as further set forth within the Hilltown Township Zoning Ordinance of 1995.

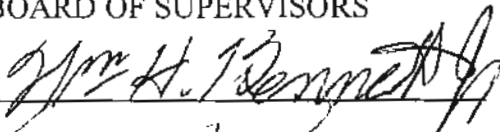

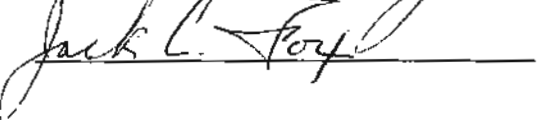
4. The Hilltown Township Board of Supervisors has the right to impose reasonable restrictions and conditions on its approval.

**ORDER**

**AND NOW**, this 11th day of September, 1995, the Board of Supervisors of Hilltown Township hereby grants applicant's request for the conditional use subject to the following conditions:

1. The proposed use shall be for an unmanned, one story modular telecommunications building having the dimensions of twelve feet by thirty eight feet; and the attachment of an antennae to the existing North Penn Water Authority water storage tank as depicted and shown upon Exhibit A-2 submitted and accepted by the Hilltown Township Board of Supervisors as a part of the record of the hearing.
2. The proposed use shall be limited to cellular telephone use operation; and such municipal use by local fire companies as may be agreed upon by applicant, the North Penn Water Authority and the Township of Hilltown.

HILLTOWN TOWNSHIP  
BOARD OF SUPERVISORS

  
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HILLTOWN TOWNSHIP  
BUCKS COUNTY, PENNSYLVANIA  
USE & OCCUPANCY PERMITS  
RESOLUTION # 94-31

BE IT RESOLVED, that the following Use and Occupancy Fees be instituted for 1994 in Hilltown Township.

IX. Use & Occupancy Permits

Each Dwelling Unit.

A.	Residential - New Construction	Fee	\$175.00
B.	Residential - Addition/Alteration	Fee	\$ 75.00
C.	Residential - Use, Resale	Fee	\$ 50.00
D.	Non-Residential - New Construction	Fee	\$325.00
E.	Non-Residential - Addition/Alteration	Fee	\$125.00

SO BE IT RESOLVED this 10th day of October, 1994.

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS

Wm H Bennett  
Kenneth B Bengtson  
J. Carroll Fox