

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED MEETING**

Monday, January 26, 2004

7:30 PM

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

The following were also present:

George C. Egly, Jr., Vice Chairman
Richard J. Manfredi, Supervisor
Gregory J. Lippincott, Township Manager
Francis X. Grabowski, Township Solicitor
C. Robert Wynn, Township Engineer
Christopher Engelhart, Chief of Police
Lorraine E. Leslie, Township Treasurer

Mr. Bennington announced that the Board met in Executive Session prior to this meeting in order to discuss personnel issues and real estate issues.

Public Comment on Agenda Items Only None.

Approval of Minutes -

January 5, 2004 - On motion of Mr. Egly, seconded by Mr. Manfredi, the minutes of the January 5, 2004 Board of Supervisors' meeting were approved as submitted. This motion was passed by a vote of 3 to 0. There was no public comment.

December 8, 2003 - On motion of Mr. Egly, seconded by Mr. Bennington, the minutes of the December 8, 2003 Board of Supervisors' meeting were approved as submitted. This motion was passed by a vote of 2 to 1 with Mr. Manfredi abstaining as he was not present at that meeting. There was no public comment.

Approval of Current Billing: Mr. Bennington presented the bills dated January 27, 2004, as follows:

General Fund	\$137,519.44
Fire Fund	\$ 3,277.50
State Highway Air Fund	\$ <u>17,771.01</u>
TOTAL ALL FUNDS:	\$<u>158,567.95</u>

On motion of Mr. Egly, seconded by Mr. Manfredi, the Board of Supervisors approved the bills list dated January 27, 2004 subject to audit, in the total amount of \$158,567.95, as submitted. This motion passed by a vote of 3 to 0. There was no public comment.

Confirmed Appointment: Chief Ray Scheeler from the Telford Fire Department addressed the Board of Supervisors as the newly appointed Chief of the Telford Fire Department having been an assistant to the Chief for the past 17 years. He read the annual fire report which is on file in the administrative offices of the Township.

Manager's Report: Mr. Lippincott explained to the Board of Supervisors that the Township has received a proposed agreement from the Bucks County Planning Commission to update the current Zoning Ordinance which will not exceed the proposed budgeted amount of \$25,000. On motion of Mr. Manfredi, seconded by Mr. Egly, the Board of Supervisors approved executing the agreement to update the current Zoning Ordinance subject to review and approval by the Township's Solicitor and Township Manager. This motion passed by a vote of 3 to 0.

Correspondence: Mr. Lippincott referred the Board to correspondence received from the Hilltown Township Zoning Hearing Board recommending candidates to fill the vacancy on the Zoning Hearing Board.

Solicitor's Report.

WAWA, Land Development Project Agreements: Mr. Grabowski explained that WAWA agreements are not ready for presentation as they have not all been returned to him and he expects they will be ready for the February meeting of the Board of Supervisors.

Johnson Subdivision: Mr. Grabowski explained that the Johnson Subdivision is a 5 lot subdivision located at the south side of Shultz Road and Diamond Street. There are 2 lots in this subdivision which require maintenance agreements because one of the lots proposes a point discharge sewer system and the second lot proposes to have a spray irrigation system. After discussion, on motion of Mr. Egly, seconded by Mr. Manfredi the Board of Supervisors adopted the maintenance agreements relating to Lot 1 and Lot 4 of the Johnson Subdivision, provided that the agreements meet the Solicitor's approval. This motion passed by a vote of 3 to 0.

Mr. Grabowski explained that at the beginning of a new year the Bucks County Planning Commission updates and reviews their review fees. He explained that a new review fee has been added for private curative amendments or private zoning change petitions that municipalities receive and that review fee ranges from \$1,000 to \$1,500. He asked that the Board consider allowing the Township staff to look at proposing amendments to Township regulations to put the burden upon the Petitioner to make certain that submissions are filed in a timely manner with the Bucks County Planning Commission and to pay the review fee directly to the Bucks County Planning Commission and that the applicant certify to the Township that this has been accomplished by providing receipts or such other documentation as received from the Bucks County Planning Commission. Mr. Manfredi said he likes the idea of putting the burden on the petitioner and asked if something could be done so that it is very clear that it is purely a legislative right as to whether the Board would want to consider a rezoning so that it is not assumed that once an application is made that there is an automatic right to rezoning.

After discussion, on motion of Mr. Manfredi, seconded by Mr. Egly, the Board of Supervisors authorized the Solicitor to draft a proposed Resolution whereby the Township will put the responsibility of the applicant for submitting to the Bucks County Planning Commission any documents and requesting the applicant to forward a time stamped copy to the Township as it relates to any request to a change to the zoning map or any request for private curative amendments and in said draft there be included such language or changes to the application that it is clearly understood by the applicant that the submission of the application does not guarantee the Board will even consider the request for changes to the zoning map and if the Board will undertake to review the application that the public be notified of any hearings. This motion was passed by a vote of 3 to 0.

Mr. Jack McIlhinney, Hilltown Landowners' Association, asked at what point in this process after the staff reviews an application does the public know that the Staff has reviewed an application with the intent of forwarding it to Bucks County Planning Commission? The Board explained that the staff and Township Solicitor will review the application and when they finally review the application it would come back to the Board of Supervisors for approval with input from the public prior to it being forwarded to the Bucks County Planning Commission for its review.

CVS Pharmacy: Mr. Grabowski explained that a hearing was held on January 8, 2004 that involved a zoning request by Mid-Atlantic Realty for a proposed CVS Pharmacy to be located at Route 313 and 113. The Petition was granted which was an enactment of Ordinance 2004-1.

Quarry Change of Hearing: Mr. Grabowski explained that the next hearing is scheduled for Wednesday, February 18, 2004 at 7:00 p.m. at the Pennridge Middle School in Silverdale. Additional hearings are scheduled for March 23, 2004 and March 24, 2004 at 7:00 p.m. at the Pennridge Middle School in Silverdale.

Scholl Conservation Easement: Mr. Grabowski told the Board that the School Conservation Easement closing was held on January 16, 2004, making the Township the owner of 62.5 acres of open space easements.

PLANNING:

Pondview Estates Preliminary Plan: David Shafkowitz, Esquire, attorney for the applicant, addressed the Board of Supervisors and explained that the proposed subdivision is located at Telegraph Road and Route 113. The proposed subdivision will be served by on lot sewage disposal system and public water. The tract consists of 19 ½ acres located in the Township's RR District. The applicant is proposing 11 new lots, 10 of which will contain new homes, 1 of which will contain the existing residence and a couple of out buildings. There will be a street through the development which will connect Telegraph Road and Route 113 with curbs and sidewalks on both sides as shown on the plan. There will be two detention basins, which will be the best management practices wetland planted under the suggested requirements provided by DEP, which will be owned and maintained by a homeowners' association. Mr. Shafkowitz explained that the applicant has agreed to do an extraordinary amount of work on Mr. Bolton's property

which adjoins this site to help alleviate storm water management problems. The applicant proposed to continue the walking trail that started on the Hilltown Chase Subdivision across the Thompson property and will provide an 8' wide macadam walking trail at the southeastern boundary of the property. This will then join the interior sidewalk and will continue along Telegraph Road to its intersection with Route 113. The applicant is also proposing along Route 113 additional buffering and berming as requested by the Planning Commission and which exceeds the Ordinance requirements. The applicant is proposing to reconstruct Telegraph Road from the intersection of Route 113 to its property boundary to bring it up to Township Code and it will be curbed along the frontage. The applicant is also proposing along Route 113 an acceleration and deceleration lane for ingress and egress to the site.

Mr. Shafkowitz then told the Board that the applicant is requesting a waiver from the remaining improvements along Route 113 which are the road widening requirements except as shown on the plan, curbing and sidewalks.

Mr. Bennington said that he believes it is important that curb and sidewalks be installed along Route 113 because ultimately the Bolton Farm will be developed and if sidewalks are not installed on this property then there will be a break between Telegraph Road into Silverdale.

Mr. Shafkowitz then discussed the impervious surface issue with respect to this application. The applicant is proposing a through street as opposed to a cul-de-sac design previously and the through street was preferred by the Planning Commission. He asked for a waiver of one of the inside sidewalks on either side of the interior street in lieu of providing the improvements along Route 113. Mr. Sam Costanza, the Project Engineer explained that by eliminating the lower side where there are fewer homes and since it is close to the walking path the residents could continue out to Route 113 easily; it would also be more ethically pleasing. Mr. Wynn explained that the removal of sidewalks on one side of the interior street was not discussed with the Planning Commission and he said that he believes a development works best when sidewalks are built on both sides of the streets but that in other developments sidewalks are on both sides, on one side and in some cases there are no sidewalks. He said that in a development where there are a lot of children the children use the sidewalks extensively. Mr. Egly said that he prefers sidewalks on both sides of the street. Mr. Manfredi said that pedestrian safety becomes an issue when there are sidewalks only on one side of the street.

Marilyn Teed, Mill Road, said she believes it should be a cul-de-sac but if no cul-de-sac then there should be sidewalks on both sides.

Hans Sumpf from 9 Beverly Road addressed the Board and said that he agreed with the developer that sidewalks should only be on one side but would want it on Route 113.

Mr. Jack McIlhinney said that he would prefer to see sidewalks on Route 113 rather than in the interior of the development and that too many sidewalks take away from the rural character of the township.

Nancy Boice, 2033 Mill Road, suggested that every time water is supplied to a development within the RR district it changes the character from a rural area and sidewalks should be required.

Mr. Shafkowitz suggested to the applicant that it pay a fee in lieu of sidewalks and that they not be installed until such time as the Township wanted the sidewalks installed in conjunction with future development.

Mr. Manfredi said that with respect to the through street he is concerned with the additional traffic that will be on Telegraph Road. He suggested that a redesign be considered so that there would be limited traffic onto Telegraph Road. He also questioned the propose berm and plantings along Route 113.

Mr. Shafkowitz explained that preliminary plan approval on this design would assist the applicant when they go before the Zoning Hearing Board to achieve the design that the Board desires because it would prove that the applicant is asking for the minimum relief in that this plan would not be adverse to the public health, safety and welfare in that it has been through the process with the Township. Mr. Bennington then said that the Zoning Hearing Board will know that the Township is requiring a through street rather than cul-de-sac and therefore because the applicant must conform to the requirements of the Township that is the hardship. Mr. Shafkowitz explained further that this is purely a dimensional variance and the applicant no longer needs to prove a hardship under existing case law.

Mr. McIlhinney mentioned that an ordinance has been drafted attempting to save out buildings but the applicant intends to remove some existing outbuildings. He requested that the Board look into exactly which buildings are intended to be removed.

Mr. Shafkowitz responded and told the Board that the outbuildings are located on Lot 9 which will be retained by the owner. He said he believes that the outbuildings that are going to be removed are purely incidental secondary structures.

On motion of Mr. Manfredi, seconded by Mr. Egly, the Board of Supervisors granted preliminary plan conditional approval to Pondview Estates subject to the following:

1. Turn down waiver requests for the waiver of improvements along Route 113 and requiring the plan to be revised to comply with installing sidewalks on both sides of the through street within the development and sidewalks along Route 113 together with the installation of the berming and trees along Route 113;
2. Pending the zoning hearing board decision with respect to impervious surface; and
3. Compliance with all other conditions as specified by the Planning Commission and outlined in the Township Engineer's letter dated January 8, 2004.

This motion passed by a vote of 3 to 0.

Hill-Smith Investment Company Subdivision. Mr. Shafkowitz updated the Board of Supervisors with respect to the subdivision located on Rickert Road close to where it intersects with Telegraph Road. He explained that the plan was designed originally to conform to the road slopes. The subdivision is designed with a "P" loop street. The Township Ordinance requires that at the intersection of the "P" loop street that the road have a slope of 3% and the leg of the street have a slope of 10% and then back at 3% at the intersection. The design for this particular property did not allow the road to get back to the original grade of 3% thereby requiring a large retaining wall. The Planning Commission asked the applicant to rework the plan to ascertain if another design could make the street meet the Ordinance requirements. The applicant is in the process of redesigning the road and is before the Board to seek consensus approval of the layout of the newly designed roadway. Mr. Shafkowitz explained that the redesign has the intersection at a 3% slope which will be maintained, the leg of the road would then increase to approximately 12% and run through the intersection of the "P" loop at 5% which is a 2% road slope increase which requires a waiver from the Ordinance. When the "P" loop then leaves that intersection it maintains a 5% slope and with this design the need for a retaining wall to hold back the creek is eliminated. After discussion, the consensus of the Board of Supervisors was that they were in favor of the redesign of the "P" loop street.

Reserve at Hilltown/Hilltown Ridge (Planning Modules): After discussion, on motion of Mr. Egly, seconded by Mr. Manfredi, the Board of Supervisors approved the planning modules for the Reserve at Hilltown and Hilltown Ridge, Resolution No. 2004-8 and authorized execution of the planning modules for the Reserve at Hilltown and Hilltown Ridge by the Township Staff. This motion passed by a vote of 3 to 0.

Myers Tract (Traffic Study): After discussion, on motion of Mr. Egly, seconded by Mr. Manfredi, the Board of Supervisors authorized a traffic study for the Myers Tract to include West Creamery Road, Telegraph Road, Callowhill Road, Route 152 and Rickert Road. This motion passed by a vote of 3 to 0

Mr. Hans Sumpf, 9 Beverly Road asked about the rural look of the area at the intersection of Telegraph and Creamery Road. Mr. Wynn said he recommended that this portion of the roadway would be changed and upgraded on the development side of the roadway.

Sunoco Land Development Plan: Mr. Wynn told the Board that this development is located at the corner of Hilltown Pike and Route 309 and was recommended for denial by the Planning Commission. The Township has received a letter granting an extension of 90 days from January 28, 2004 which would extend the review period to April 27, 2004. Additionally, the applicant has submitted a sketch plan for the Planning Commission's review and comment.

Engineering:

Home Depot: After discussion, on motion of Mr. Egly, seconded by Mr. Bennington, the Board of Supervisors granted an extension for completion of all improvements at the site to June 30, 2004 in order for the work to be accomplished during favorable weather conditions. This motion passed by a vote of 2 to 1 with Mr. Manfredi abstaining.

Kirk Subdivision: Mr. Wynn explained that the Kirk Subdivision originally was a 2 lot subdivision on Stump Road near Callowhill Road with one new building lot and an escrow has been submitted for a driveway entrance and storm water management facilities. A 24+ home sketch plan has been submitted to the Planning Commission for review. After discussion, on motion of Mr. Egly, seconded by Mr. Bennington, the Board of Supervisors granted a one year extension to December 31, 2004 for plan review. This motion passed by a vote of 2 to 1 with Mr. Manfredi abstaining.

Mylars for Signature: None

Public Comment:

Marilyn Teed, Mill Road addressed the Board of Supervisors and said she had a wonderful day on Saturday in Lancaster where she heard Ambassador Alan Keys and Justice Roy Moore speak on Constitutional Rights. John Bender requested an Ordinance be prepared to save barns in the Township and it has not been passed on by the Planning Commission because the Planning Commission did not want any use for barns other than for livestock. She discussed the ditch on the side of her house and the Township's storm water that is going on her property. She said that dirt has been placed in the ditch and DEP was informed and the DEP has indicated that the local Ordinance governs this situation and not DEP. She said that her attorney has received citations on her behalf. She went over the history of the problem of storm water on her property for the benefit of the Board of Supervisors. She explained that she spoke with Tom Buzby and they shared the same concerns about ice on the roadway. She believes the solution is that each property owner along the street has a pipe installed under their driveway so that the water will flow naturally. She said they would be willing to temporarily open the ditch to allow the water to flow until the Township resolved this issue. She asked if this was acceptable to the Board of Supervisors. Mr. Grabowski said that the road department made a determination that there is a potentially unsafe condition, and that a letter was sent to Mrs. Teed requesting that she remove the dirt from the ditch and she has agreed to do so temporarily. He said that if the debris is not removed citations could be issued and courtesy copies of the citations were sent to Mr. and Mrs. Teed's attorney.

Mr. Manfredi asked for confirmation from Mrs. Teed that the Township is diverting storm water onto her property and Mrs. Teed confirmed that this is true. She explained that there is a pipe from the opposite side of the road that is aimed at their property and that it is not a natural occurrence. There is a berm below the pipe to discourage any water flow down the same side of the road. Mrs. Teed said that in 1997 when the Township was called Mr. Wynn said it was a natural waterway but that a pipe does not constitute something that is natural. He said he would like the Township Engineer and Solicitor to review this situation and that what is causing an unsafe condition be corrected.

Mr. Bennington asked Mrs. Teed if she removed the debris and she said she has not. Mr. Bennington said that a citation will follow.

Mr. Lippincott said that the Township offered to have their workmen clean out the debris if Mr. and Mrs. Teed promised not to put debris back in the ditch.

Mr. Bennington said that due to litigation this would not be discussed further.

Mr. Jack McIlhinney, Broad Street, commented that the Barn Ordinance requested by John Bender was the course of action for the farmstead ordinance that Mr. Wynn has prepared and this is incorrect. The purpose of the farmstead ordinance was to make certain that in the course of a development that the entire farm could be excluded from the impervious surface requirements; it had nothing to with saving a barn.

Mr. Joe Schreiner, 919 East Walnut Street. He said he lives next to the Orchard Hill development and he has had a continuing problem with rain surface water coming onto his property. He estimates it is about 3 times as much as prior to construction. He said that other neighbors are having difficulty with excess water runoff from the Heritage development. He explained that Heritage Builders agreed to deepen the ditch along his property and install a pipe under his driveway to connect to a streambed which is generally dry. Even with the pipe there are approximately 15 places where the water flows over his driveway which he believes is a result of the new development. Also Heritage has agreed to restone the driveway. However, before any improvements to the driveway are made by Heritage they want to stop the flow of water but they have been unsuccessful in stopping the flow of water.

Mr. Wynn explained that the Heritage Development has conformed to the as-builts and the requirements of the Township. Mr. Wynn said that two engineers have reviewed this project in addition to his office and approximately 45% of the water that drained to this property prior to this development no longer drains to this property. There is no documentation to indicate that there is more water flowing to Mr. Schreiner's property.

On motion of Mr. Manfredi, seconded by Mr. Egly, the Board of Supervisors authorized the Township Manager and Township Engineer to look at Mr. Schreiner's property and make a report and recommendation to the Board. This motion passed by a vote of 3 to 0.

Supervisors Comments:

Mr. Manfredi said that he noticed that when an applicant comes before the Board with plans he would like to have the applicant and/or attorney project the plan for the audience and Board can see the plan.

He suggested that the Board consider contracting with Bucks County Planning Commission for a Planner to work with the Hilltown Township Planning Commission, attend the meetings and be an additional resource to our Planning Commission.

After discussion, on motion of Mr. Manfredi, seconded by Mr. Egly, the Board of Supervisors authorized the Township Manager in consultation with the Township Engineer to initiate conversations and meetings with the Bucks County Planning Commission to see if we can work out a satisfactory arrangement where there is a person assigned from the Bucks County Planning Commission to serve as a planner to the Hilltown Township Planning Commission and to see what kind of arrangements can be

made and to take a look at our fee schedules, escrows and come up with some sort of recommendation to make this happen. This motion passed by a vote of 3 to 0.

Mr. Egly complimented the Road Department for the good job they did with all the ice and snow during the month of January. He said he was not as pleased with PennDOT's work

Press Conference: No comment.

Adjournment: On motion of Mr. Egly, seconded by Mr. Manfredi, the Board of Supervisors voted to adjourn the January 26, 2004 Board of Supervisors meeting at 9:26 p.m. This motion passed by a vote of 3 to 0.

Respectfully Submitted

Jean W. Deckert
Acting Recording Secretary