

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

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

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

Chairperson Snyder announced the Board met in Executive Session prior to this evening's meeting to discuss real estate and legal matters, pertaining to the Baker issue.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY:

1. At the May 12th worksession meeting, Mr. Jack McIlhinney of Broad Street questioned the announced Executive Session to discuss fact-finding, and was told to mention it this evening while Solicitor Grabowski was present. Since this is not an agenda item, Chairperson Snyder asked Mr. McIlhinney to raise the issue at the Public Comment section of the agenda at the end of the meeting.

B. APPROVAL OF MINUTES – Action on the minutes of the April 28, 2003 Supervisor's Meeting – Motion was made by Supervisor Bender, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the April 28, 2003 Supervisor's Meeting, as written. There was no public comment.

C. APPROVAL OF CURRENT BILLING: Chairperson Snyder presented the Bills List dated May 28, 2003, with General Fund payments in the amount of \$164,072.88, and State Highway Aid Fund payments in the amount of \$3,054.36; for a grand total of all payments in the amount of \$167,127.24.

Motion was made by Supervisor Bender, seconded by Supervisor Bennington, and carried unanimously to approve the Bill's List dated May 28, 2003. There was no public comment.

D. CONFIRMED APPOINTMENTS: None.

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

1. The Fire Prevention Bureau voted 6-0 to recommend the Township adopt the proposed Cost Recovery Ordinance. This Ordinance would assist fire companies in recovering their costs for fire call responses from homeowners insurance. Mr. Lippincott recommended that the proposed Ordinance be forwarded to Solicitor Grabowski for review. Mr. Lippincott noted that Silverdale Borough has passed such an Ordinance, and Perkasio Borough, East Rockhill and West Rockhill Townships are currently considering it.

Motion was made by Supervisor Bennington, and seconded by Supervisor Bender, to authorize the Township Solicitor's review of the proposed Cost Recovery Ordinance as specified above.

Public Comment:

1. Mr. Jack McIlhinney of Broad Street asked for clarification of the proposed Ordinance. Mr. Lippincott explained that when expenditures are encountered by a fire company responding to a call, they could then bill the homeowner's insurance company to recover those costs for materials, time, and equipment use. Mr. McIlhinney did not understand, since the volunteer fire companies receive monetary support from local municipalities and tax dollars, as well as private contributions from the public. Mr. McIlhinney believes this will only increase insurance rates. Discussion took place.

Motion carried unanimously and passed. There was no further public comment.

2. The Fire Prevention Bureau voted 5-0 to recommend that the Governor's Center conduct a Township-wide study to determine ways to improve fire services. There is no cost for this study and the service is provided free from the State.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to authorize the Governor's Center to conduct a Township-wide study to determine ways to improve fire services, as specified above. There was no public comment.

3. A response has been received from PennDot concerning the Township's request for assistance with studying the parking situation along Rt. 113 through the Village of Blooming Glen. It is PennDot's policy to defer the question of imposing restrictions related to vehicular parking to the local municipality, based upon Title 75 of the Vehicular Code.

Sgt. Bob Miller of Hilltown Police recently attended a PennDot engineering class, and noted that there are certain ways a parameter study could be conducted, if parking in a specific area somehow impacts traffic. If two vehicles cannot traverse the area freely without impending hazards, the officer who completes the report can make a recommendation for a "No Parking" area. Quite frankly, Sgt. Miller advised that PennDot does not want to conduct a parameter study because they do not wish to be held accountable.

Mr. Lippincott reminded the Supervisors that once a municipality on a State road imposes "No Parking" requirements, that requirement can only be removed by PennDot, not the jurisdictional municipality.

The Supervisors directed Sgt. Miller to conduct a parameter study on the parking issue through the village of Blooming Glen, as noted above.

4. Mr. Lippincott presented a proposed Resolution for adoption this evening, authorizing East Rockhill Township to make application on behalf of the Pennridge Area Coordinating Committee, to apply for the LUPTAP (Land Use Planning Technical Assistance Program) grant application in order to implement an inter-municipal long-range plan for the environmentally sound use of water resources. Those members of the PACC include Dublin, Perkasio, Sellersville and Silverdale Boroughs, and Bedminster, East Rockhill, Hilltown and West Rockhill Townships. Discussion took place.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to **adopt Resolution #2003-24, authorizing East Rockhill Township to make application on behalf of the Pennridge Area Coordination Committee, to apply for the LUPTAP grant application in order to implement an inter-municipal long-range plan for the environmentally sound use of water resources.** There was no public comment.

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

1. Correspondence was received from Sal Lapio Homes, requesting Board's consideration of their request to fill in the old farm pond bed on Lot #10 of the Lynrose Estates Subdivision.

Mr. Wynn explained that this farm pond had not held water for many years, and when the Lynrose Estates Subdivision plan was submitted in the fall of 1999, the pond was dry. The developer dug it eight feet deeper than its original two-ft. depth, yet it still would not hold water. During the development of the subdivision plan, the pond was incorporated into the stormwater management system to be a permanent pond on Lot #10 with a depth

of approximately 5 ft., and then to have a water elevation that would fluctuate above that to provide stormwater management as part of two different stormwater management basins. Ever since that site has been under construction, Mr. Wynn stated that there has never been a water source to the pond. He is not certain if it is because the water source was very shallow and the development of public water lines with stone backfill interrupted the source. Therefore, the developer is requesting authorization to fill the pond up to the normal water elevation to maintain the remainder of the pond as a detention facility. Mr. Wynn recommended that the developer's request be approved, subject to stabilizing the detention facility and notification of the property owner of Lot #10, both by issuance of a Zoning Permit and a Use and Occupancy Permit. Discussion took place.

Motion was made by Supervisor Bennington, and seconded by Supervisor Bender, to authorize the filling of the former farm pond bed on Lot #10 of the Lynrose Estates Subdivision, subject to stabilization of the detention facility, and notification of the property owner of Lot #10, both by issuance of a Zoning Permit and a Use and Occupancy Permit.

Public Comment:

1. Mrs. Marilyn Teed of Mill Road commented that the pond in question has contained water ever since she has lived on Mill Road. Once the pond bed is filled in, she asked if stormwater would be directed to it for use as a detention basin. Mr. Wynn explained that there was no clay lining in the pond originally. The developer was planning on installing clay lining if it was not holding water because the bottom was fractured. Mrs. Teed asked if the clay lining could have been removed when the developer made the pond deeper and wider. Mr. Wynn replied that there was never a clay lining. There is and will continue to be surface water from the above lots directed to the pond once it is filled in because it is a stormwater management facility and it will continue to function as such. At present, there is a valve on the bottom of the pond, which can be opened and closed. Currently the valve is open though there was no water flowing to it.

2. Mr. John Kachline of Mill Road questioned the location of the pond and Lot #10. Mr. Wynn explained the location, and advised that the detention basin located on the curve is the main detention basin, which is not the one being discussed this evening. Mr. Kachline noted that the main detention basin is experiencing a great deal of erosion, and suggested that the developer should place stone in the area while they are filling in the detention basin on Lot #10.

Motion carried unanimously and passed. There was no further public comment.

2. Correspondence was received from PennDot regarding the Township's request to install a traffic signal at the intersection of Diamond Street and Orchard Road for the Summer Lea Subdivision. PennDot has taken an 11-hour vehicle/pedestrian manual count to evaluate the need for a traffic signal. This count was made since the requirements for a traffic signal are based on the eight highest hours of an 11-hour period. Following the counts, the data was summarized and the 8 highest hours were used to justify any type of signal. In this case, only 1 of the 8 hours equaled or exceeded this figure. To insure that every consideration was given to the Township's request, PennDot reviewed and evaluated all other factors including accidents that would be susceptible to correction by a traffic signal. Therefore, PennDot's review does not indicate that a signal is warranted at this time. The correspondence further notes that the Township may request a re-study of this intersection in six months.

The Supervisors directed Mr. Lippincott to request a re-study in 6 months.

3. Correspondence was received from Mr. Phillip Bergey of Orchard Road requesting the Supervisor's assistance with connecting their current home to public sewer through the Telford Borough Authority, due to a failed septic system. Mr. Bergey notes that there are at least four other dwellings that have made this same request of Telford Borough Authority. Mr. Lippincott recommended that Telford Borough Authority be notified that the properties are in their service area according to the Act 537 Plan and that they are permitted to connect, but prior to connection, the Township should see a plan where the sewer lines are located and where the connections will be made.

Mr. Wynn suggested that the other four properties be identified, and that the Township inquire as to whether any or all of those properties are interested in connection to public sewer. Further, the Bucks County Health Department should be notified. If only one other property is interested in connection, Mr. Wynn noted that it would be a lateral connection that would require merely a postcard application to DEP. If there are more properties interested in connection, however, a whole sewer study might be required. Discussion took place.

Chairperson Snyder will contact Mr. Bergey to determine if any other neighboring property owners are in a failing situation. Once that information is obtained, Mr. Wynn will contact the Health Department to determine if they are aware of any other failed systems in the area, and he will then investigate the situation, contact DEP, and report back to the Board of Supervisors.

4. A request has been received from Cumberland Township for an individual from Hilltown Township to provide them with a brief presentation of agricultural zoning and land preservation on June 3, 2003 at their municipal building near Gettysburg.

Supervisor Bennington noted that Hilltown Township has not adopted agricultural zoning, Bedminster Township has.

The Supervisors directed Mr. Lippincott to forward this request to Bedminster Township.

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

1. Solicitor Grabowski presented a Resolution for Declaration of Road Frontage Easement for the Balmer Subdivision for the Board's consideration.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to **adopt Resolution #2003-25, accepting the Declaration of Road Frontage Easement for the Balmer Subdivision.** There was no public comment.

2. Solicitor Grabowski presented a Sidewalk Easement Agreement for the Orchard Hill Subdivision for the Board's consideration.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to accept the Sidewalk Easement Agreement for the Orchard Hill Subdivision. There was no public comment.

3. For the Board's information, the next H & K Quarry re-zoning request hearing has been scheduled for Tuesday, June 17, 2003 at the Central Middle School located in Silverdale Borough. This hearing was incorrectly listed in a local newspaper as being held on Thursday, May 29th.

At the last hearing, the applicant announced that they intend to spend the next several hearings, possibly as many as four, on only the Skunk Hollow Quarry and the Murphy Tract. No discussions will take place concerning the Blooming Glen Quarry until a later date.

4. The proposed Stormwater Management Ordinance is being advertised for consideration and Public Hearing at the June 23, 2003 Supervisor's meeting.

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

1. The Ridings at Hilltown – This plan for 10 single-family dwellings with frontage on Broad Street and Stump Road was unanimously recommended for preliminary approval by the Planning Commission at their March 17, 2003 meeting. Subsequently, at the Supervisors meeting of March 24, 2003, the waivers requested of Subdivision Ordinance requirements that were also unanimously recommended for approval by the Planning Commission, were approved. Prior to the Supervisors action on

the preliminary plan, the plan was revised to address a number of outstanding engineering/planning requirements.

Mr. Wynn's correspondence dated May 20, 2003, which includes outstanding conditions of preliminary approval recommended by the Planning Commission based upon the latest plan revision dated April 25, 2003, was discussed. Mrs. Teresa Craig, the applicant, and Mr. Robert Showalter, the applicant's engineer, were in attendance to present the plan.

Due to some trees and vegetation located close to the roadway, Mr. Showalter believes there are some areas where a 4 ft. wide grass shoulder would not be feasible unless the swale can be moved or modified. Mr. Wynn noted that this issue could be reviewed and considered during the final plan submission process.

Mr. Showalter advised that the stormwater detention basin is proposed to be contained within an easement that will be part of a Homeowner's Association. The homeowner who will actually have the basin located on his lot will be Mr. Mark Funk. Since there are a great deal of plantings on the detention basin, along with many water quality elements, Mr. Funk requested that the applicant study it further and consider a few plantings that might be eliminated. Mr. Showalter wanted to make Mr. Wynn and the Board aware of this possibility, and advised that the drawings may be revised a bit when final plans are submitted.

Mr. Showalter stated that the street names chosen, Mathias Lane and Griffith Court, are names of two of the original settlers of Hilltown Township who lived in that area.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to grant conditional preliminary plan approval to the Ridings of Hilltown Subdivision, pending completion of all outstanding items as noted in Mr. Wynn's engineering review dated May 20, 2003. There was no public comment.

2. Beck Minor Subdivision – The Beck Minor Subdivision with frontage on Hilltown Pike and Township Line Road was unanimously recommended for preliminary/final plan approval by the Planning Commission at their meeting held on May 19, 2003 subject to completion of outstanding Ordinance requirements as contained within the April 29, 2003 engineering review. Item #2 within the engineering review addresses Subdivision Ordinance waiver requests made by the applicant. Item #2.A was unanimously recommended for approval subject to an equal number of street trees (four trees) or a cash donation being made to the Township in-lieu-of installation of the screening required by Section 505.9. Waivers requested as noted in Item #2.C were unanimously approved subject to the granting of a path easement along Township Line Road (which is shown on the plan). Waivers requested under Items #2.B and 2.D were approved.

Motion was made by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously to grant preliminary/final plan approval to the Beck Subdivision, pending completion of all outstanding items as noted in Mr. Wynn's April 29, 2003 engineering review, including a cash donation in lieu of the four trees. There was no public comment.

3. Sunoco Land Development - On May 19, 2003, the Planning Commission reviewed "Conceptual Plan B" relative to street and access improvements at the Sunoco, Inc. Land Development site at the intersection of Hilltown Pike and Rt. 309. The main issue of concern discussed at the Planning Commission meeting was access to the site and specifically the southernmost proposed access on Rt. 309. Action on this plan is required not later than May 31, 2003.

Mr. Michael Yanoff, the applicant's legal counsel, Mr. Pete Clelland, the applicant's engineer, and Mr. Dougherty, the applicant's traffic engineer, were in attendance to present the plan. The threshold issue of access along Rt. 309 still remains. The applicant had requested that the Township's Traffic Consultant be present this evening in order to discuss this one very important issue. Mr. Yanoff commented that the applicant is asking the Township to allow PennDot to make their decision with regard to access. Because the location is such a critical and heavily traveled intersection, Mr. Yanoff stated that as part of the development plan, Sunoco has proposed extensive and expensive modifications and improvements to the intersection of Rt. 309 and Hilltown Pike. The applicant feels that those proposed improvements, which include turning lanes, are critical for a safe access through that intersection and to the site itself. It has been estimated that the proposed improvements will range in cost of up to a quarter of a million dollars. Mr. Yanoff believes that the access issue drives the proposed plan, and without the access as proposed, it is conceivable that the plan would be withdrawn. The applicant does not feel that this proposal would adversely affect the traffic flow along Rt. 309.

At the behest of the Township and the Township Planning Commission very early on, the applicant was directed to contact the Hilltown Fire Company, whose station is located adjacent to the property. A meeting was held with the representatives of the fire company, which Mr. Yanoff personally felt was very disappointing. They outlined six issues of major concern, including parking and access, all of which the applicant believes they can adequately address. However, the one issue that appeared to drive the fire company representatives, was to request a partnership with Sunoco to acquire the neighboring property to construct a new firehouse. Mr. Yanoff has no disrespect for the fire company or the important work they do, however he feels this request was unfair. The applicant is not about to purchase someone else's property so that the fire company can construct another firehouse. Mr. Yanoff stated that the applicant will do what they need to do to continue to be a good neighbor to the fire company, by providing parking for their use. As the Board may recall, Sunoco, at the request of the Township, was

instrumental in removing a luncheonette business from that area and cleaning up the site for the fire company. There are, potentially, other means of designing this property, which are not economically advantageous for Sunoco, but which would considerably disadvantage the fire company, something the applicant does not wish to do. Mr. Yanoff is simply asking the Board to consider their request to allow PennDot to make their determination for site access. Even if the Township agrees to allow the applicant to make their application to PennDot, they are aware that they must still apply for variances from the Zoning Hearing Board.

Mr. Clelland advised that an additional right-turn lane at the intersection of Rt. 309 and Hilltown Pike was critical, and therefore, it was added prior to preliminary plan submission. A dual left turn lane from southbound Hilltown Pike onto Rt. 309 with a through movement in the center lane and a separate right turn lane movement has been proposed. A full access driveway is proposed at the northern side of the site. There are eight pumps totaling 16 fueling positions, as well as a new building of 4,200 sq. ft., and a diesel fueling station to the rear of the building. After several meetings with the Planning Commission, a number of concerns were discussed relative to driveways, interactions, and trips to the site. As Mr. Yanoff mentioned, the right turn entrance at the very first point along Rt. 309 is very critical to Sunoco and their operations, but has also been a point of contention with the Planning Commission, who believe that the driveway is too close to the intersection of Rt. 309 and Hilltown Pike. Some modifications that were made to widen Hilltown Pike no longer permit a proper turning radius for a tractor-trailer vehicle going from Hilltown Pike to northbound Rt. 309. Subsequently, the site has now been reconfigured somewhat. It is not a drastic change in terms of the layout, with the canopy remaining on the easternmost side, with the building centrally located and the diesel fuel islands to the rear. The entire site was pulled back several feet to allow additional green area and to allow a vehicle at the Hilltown Pike driveway to queue up without blocking any movements in and around the canopy. The applicant also located the driveway more than 10 ft. further from the intersection by creating a compound radius at the intersection of Rt. 309 and Hilltown Pike to allow proper movement of tractor trailers around that corner, by providing a 10 ft. tangent distance before entering radius for the driveway coming in, by shifting the driveway as far as possible away from the intersection. Mr. Clelland noted that the center driveway was taken from a full-access in and out, to an exit only, and the rearmost driveway was made a full access, but again, right turn out only because the median divides the highway at that point. The applicant also proposes to extend that median to the property line. In conjunction with moving this plan forward to PennDot, the applicant proposes to extend that median as far as possible without interrupting the neighbor's access along Rt. 309. The southernmost access on Rt. 309 appears to be the most critical issue between the applicant and the Township. The point raised by the Township's Traffic Consultant, Mr. Andy Heinrich, was concern with driver confusion with regard to the two entrances from Rt. 309 being located within very close proximity to each other. By virtue of the elimination of the one driveway, the

applicant felt that Mr. Heinrich's concern would be addressed, while still having a driveway in front of the canopy remain. Mr. Clelland explained that the point of having a driveway in front of the canopy is obviously to address Sunoco's main business, which is fuel sales.

With regard to Mr. Yanoff's opening statement, Supervisor Bennington does not believe the Planning Commission was opposed to moving the proposal forward to PennDot, as long as it included correspondence from the Township indicating opposition to the three entrances, which the applicant subsequently refused. Mr. Yanoff replied that the applicant's concern was that the Township did not wish to become bound by PennDot's determination, the agency that has the ultimate jurisdiction over the access points on Rt. 309. Supervisor Bennington did not disagree, however he felt that the Township should have the opportunity to present their opposition to the proposed accesses to PennDot.

Mr. Wynn believes that perhaps the applicant's legal counsel who was present at that Planning Commission meeting, Mr. Joseph Kuhls, had a different take on the events of that evening. He explained that the Planning Commission initially approved a motion to send the concept plan to the Township's Traffic Engineer for further review and consideration at their June meeting. Mr. Kuhls indicated that the motion was unacceptable to his client, since it would delay them one month. Further, the Planning Commission did not include in that motion that they would agree with whatever the Traffic Engineer recommended. Mr. Kuhls then requested that the Planning Commission recommend the plan be forwarded to PennDot for review. A motion was then proposed by the Planning Commission to recommend the Board of Supervisors forward the plan to PennDot with the Planning Commission's objection to the southern access noted. Mr. Kuhls objected to a letter containing the Planning Commission's concerns relative to that proposed access. Additionally, Mr. Kuhls advised that the applicant would not grant a further extension in the review period, at which time the Planning Commission unanimously approved a motion to recommend that the plan be denied due to non-compliance with numerous outstanding Zoning and Subdivision/Land Development Ordinance requirements as contained within the February 5, 2003 engineering review. If the applicant is willing to forward the Township's opposition letter to the access points along with their submission to PennDot, Supervisor Bennington would be amenable. Supervisor Bender does not consider a Planning Commission's recommendation representing the Township's objection, rather the Planning Commission would make a recommendation to the Board of Supervisors, and if they so desire, would make that request of the applicant. Personally, Supervisor Bender would like to see the Township Traffic Consultant's review before making any judgment, and then if there is any reason to forward an objection to PennDot, it would be done. Mr. Yanoff explained that the applicant has requested a meeting with Mr. Heinrich, and has asked to have Mr. Heinrich attend a public meeting, however that has not yet occurred. Supervisor Bennington explained that it is the Board of Supervisor's authority to direct Mr. Heinrich to meet

with the applicant. Mr. Lippincott noted that Mr. Yanoff's request to meet with Mr. Heinrich was received last week, and therefore, he did not have the opportunity to bring it before the Board until this evening. Mr. Yanoff commented that this is not the first time this plan has been before the Planning Commission or the Board of Supervisors, yet he has not received any clear direction. Supervisor Bennington noted that the last time the plan was before the Planning Commission was one week ago, and since that time, the Township Manager received the applicant's request concerning Mr. Heinrich. Therefore, Supervisor Bennington hoped that Mr. Yanoff is not implying that the Township is delaying this plan or dragging its feet on this plan. Chairperson Snyder explained that the Township Traffic Engineer does not generally attend Planning Commission meetings. Rather, plans and revised plans are submitted to him for review, and he then provides written comments to the Planning Commission, the Board of Supervisors, and the Township Engineer. Mr. Wynn reminded Mr. Yanoff that only one formal submission has been made to the Township, for which his review dated March 5, 2003 was written. Other than that, only sketch plans have been submitted, and therefore, would not be reviewed by Mr. Wynn or Mr. Heinrich.

On another issue, Supervisor Bennington takes great offense that Mr. Yanoff implied that the Hilltown Fire Company was attempting to extort from Sunoco. There were six significant items of concern in the Hilltown Fire Company correspondence dated March 1, 2003, which are as follows:

- Tank locations and vent placement in close proximity to the fire station.
- The existing station is approximately fifty years old. Due to the age and condition of the building, the excavation efforts and possible vibrations if rock is encountered, would worsen the condition of the foundation and brick facade.
- The proposed parking and tank locations would render the entire south side inaccessible for responding volunteers.
- The location of the kerosene pump in close proximity of the fire station is an extreme hazard.
- Off-loading fuels in the underground tanks at the proposed tank locations would render the response capabilities of the fire company useless in the event of a spill or accidental discharge. In addition, the spill travel direction could endanger volunteers trying to arrive at the station, as well as the responding crews.

- Offloading large volumes of gasoline adjacent to the station would not present itself as a safe work practice, since unanticipated emergencies could develop within the community during fuel transfer operations. This situation would render responding apparatus as possible ignition sources for igniting fumes.

As Mr. Yanoff previously indicated, he and Mr. Clelland met with the fire company representatives, where the above noted items were eventually discussed. However, first a comment was made by a fire company representative that they really did not care about the safety issues on the site or what Sunoco proposes, because what they really wanted to do was acquire the adjoining property with Sunoco's assistance. Only then, with Mr. Yanoff's insistence did the fire company begin to discuss the above noted issues in depth. The applicant told the fire company, point-by-point, that these were issues would be addressed on the plan. At the end of that meeting, Mr. Yanoff stated that the parting comment from the fire company was that they wished to purchase the neighboring property, with a lengthy discussion as to whether or not that property was or was not held in trust. Regardless of whether or not Sunoco could address their comments and requests, it appeared to Mr. Yanoff that the fire company's goal was to persuade Sunoco to purchase the neighboring property. The March 1, 2003 letter from the Hilltown Fire Company also states "Good-hearted and dedicated people who wanted to make a difference in their community constructed the existing fire station. The building's present condition could worsen during Sunoco's expansion project. As a possible option, we would consider a partnership with Sunoco to construct a new fire station further back from the existing site, if sufficient ground behind the station was available for purchase." Supervisor Bennington finds it hard to believe that the fire company stated that they were not concerned with safety issues. Mr. Yanoff replied that what the fire company was much more concerned with was acquisition of new property. When Mr. Yanoff discussed the parking and the access issue with the fire company representatives, their comment was "We want to move the building. That's our primary concern." As an officer of the court, Mr. Yanoff swears that this is the discussion that took place at the meeting with the fire company representatives, and that this is exactly what they said to him. Mr. Yanoff attended that meeting with the understanding that the fire company had real issues and concerns to address with Sunoco, for which he was prepared to address, however those issues were shoved aside. Mr. Yanoff believes that the fire company would like Sunoco to make those site improvements as requested in their March 1, 2003 letter, but he believes their main goal is to obtain the assistance of Sunoco in purchasing another piece of property.

Supervisor Bender travels Hilltown Pike every day, and from what he sees of the proposed plan, he is happy with the improvements to Hilltown Pike. He is concerned that motorists may cut through the rear of the site from the Hilltown Pike access out onto Rt. 309 in order to avoid any congestion at the intersection itself. Mr. Dougherty does

not anticipate that would happen, because if motorists could access the driveway, they could also access the right turn lane, which is dedicated to right turn movement. Supervisor Bender will feel more comfortable once a review has been received from Mr. Heinrich.

Supervisor Bender asked for a status report of the MTBE water contamination being experienced by the residents of the Line Lexington area. Mr. Clelland understands that the condition continues to be monitored, however he has heard nothing more about the issue. Mr. Scott Cullen, a construction engineer with Sunoco, is aware that the treatment system on the site has been turned off, and knows that a majority of the wells in the area have gone below 5 ppb's, which is the State threshold. Certainly, Sunoco is spending a great deal of money monitoring the situation.

Mr. Yanoff referred to his handwritten notes and a memo that he dictated to his file immediately following the meeting with the fire company representatives, which states "The only thing that will seem to satisfy the fire department is if Sunoco consents to help them purchase the Connelly property so that they can move the fire house." Supervisor Bennington reminded Mr. Yanoff that that statement was his personal perception of the meeting. Relative to the six points in the March 1, 2003 Hilltown Fire Company correspondence, Mr. Clelland commented that Sunoco is willing to address all of them with some simple measures on the site. The first of which would be moving the tank field location further away from the 16 parking spaces that are a concern to the fire company, so that they would have continued access regardless of what is going on at the Sunoco site. With regard to the vent location, Mr. Clelland advised it is not shown on the plan, but it could be moved away from the fire station anywhere on the site. Further, the location of the kerosene pump can also be moved away from the fire station. Regarding the concern about excavation, Mr. Clelland noted that it would be a non-issue because the tanks are far enough away that it would not be in the line of influence of the fire station's foundation. Two of the other concerns raised by the fire company are basically tied to the same tank location, which will be moved.

Chairperson Snyder would like the plan to be revised to address the fire company's concerns and then sent to Mr. Heinrich for a formal review. Once an evaluation is received from the Township's Traffic Engineer, the Planning Commission and the Board would review it. Chairperson Snyder wants to know that the fire company's issues have been addressed on the plan so that the Township knows that Sunoco can deliver on what they are promising. Once that has been accomplished, the plan can move forward.

Mr. Wynn commented that this plan requires a great deal of variance approvals, and there have also been many waivers requested. In the concept plan before the Board this evening, there have been some changes, which will require perhaps additional variances and/or waivers. There are also many issues that have not been revised from the initial

engineering review. Typically, Mr. Wynn noted that the Township does not forward a plan for review by PennDot until many of the other issues are narrowed down and the Township has the ability to see the site in a form that they are comfortable with so that all the other issues can also be resolved. Mr. Wynn felt it would be premature to send this plan to PennDot.

Mr. Yanoff advised that Sunoco is willing to grant a 60-day extension for the purpose of further review by the Township Traffic Engineer. Then, when the applicant appears before the Planning Commission once again, a meaningful discussion can take place concerning the one major issue of the southernmost access. Mr. Clelland believes that the reason the applicant has not submitted full development plans is because it became clear very early on that the driving issue was the access, and not these other peripheral issues, which is why the applicant focused on the concept plan to review the site access layout. Changing the layout of the driveways is not going to change the grading substantially; nor will it change the landscaping, the impervious coverage, or the variances that are still required.

Supervisor Bennington reiterated the timeline involved with resubmission of revised plans -- the applicant will submit revised plans addressing the fire company's concerns and the issue of the intersection of Rt. 309 and Hilltown Pike. Mr. Yanoff believes that Mr. Heinrich could review the Concept Plan B, since the revised plan submission will not change the traffic considerations. Supervisor Bennington and Mr. Wynn were not comfortable sending the Concept Plan B to Mr. Heinrich for review, because normally he reviews the site plan as a whole, along with any changes that might be made on site with regard to parking or traffic movement. Chairperson Snyder agreed, noting that the Township would be setting a precedent by forwarding a concept plan to Mr. Heinrich. If the revisions are as simple as Mr. Yanoff and Mr. Clelland seem to think, Mr. Wynn noted the applicant should be able to submit a plan within a week, which would provide plenty of time for Mr. Heinrich's review. Supervisor Bender agreed that the plan should be revised before it is submitted to Mr. Heinrich for review.

Mr. Yanoff presented a written 90-day extension, which would require action by July 30, 2003.

Public Comment:

1. Mr. Bob Grunmeier of 33 Hilltown Pike, who is the chief of the Hilltown Fire Company, made a formal request for copies of the tape recordings of this meeting. He noted that at no time did the fire company department compromise or make any offer to compromise any safety issues in regard to this land development. Mr. Grunmeier stated that the very first part of that meeting with Sunoco and the fire company began with Mr. Yanoff asking the fire company for a letter stating that they agreed with and supported

everything on the plan. Mr. Grunmeier explained that the fire company could not do that because there is a process in Hilltown Township to be followed, which is what they elected to do. The fire company offered, in their March 1, 2003 correspondence, a partnership with Sunoco to construct a new fire station as a solution to the applicant's difficulty with the size of their own site. At no time did the fire company representatives "strong-arm" the applicant. Mr. Grunmeier commented that the fire company made their safety issues and concerns known to the applicant and to the Township, which was the purpose of the meeting held with Sunoco. Mr. Grunmeier apologized for Mr. Yanoff using the fire company as a "stick" to beat the Board of Supervisors. The Hilltown Fire Company is a public service unit who has strived to maintain public safety, which was their goal by requesting a meeting with the applicant. If there is any further correspondence relating to the proposed Sunoco land development, Mr. Grunmeier asked if the fire company could be privy to it. Mr. Lippincott advised that correspondence is kept in the land development file and is always available for public review. Mr. Grunmeier wished to point out to Mr. Yanoff that the Hilltown Fire Company is a volunteer organization, and as such, the members may not always be as available as he might be. Therefore, when representatives of the fire company are available, they would be happy to meet with him.

2. Mrs. Marilyn Teed of Mill Road felt that there might be an opportunity to do something for the Hilltown Fire Company during this land development process. She believes everyone that is served by that Fire Company should be responsible to assist with the purchase of that neighboring property, if it is feasible, or to assist with construction of a new building. Mrs. Teed feels that Sunoco, as part of the community that is served by the Hilltown Fire Company, should be willing to donate their fair share towards this cause.

3. Mr. Dave Weitzenhoffer, the franchisee of the Sunoco location, hopes that cooler tempers will prevail the next time this issue is discussed. His livelihood depends upon the issues that have been discussed here and before the Planning Commission. It appears to Mr. Weitzenhoffer that no other aspect of the plan can be discussed and the land development cannot move forward because discussions seem to center only on the southernmost access to the site. The access exists today and there have been no problems with it to this point. Mr. Weitzenhoffer hopes that this plan can move forward expeditiously. Discussion took place.

4. Oskanian Tract Subdivision - The applicant cancelled their appearance this evening. The plan will be discussed at the June 23, 2003 Board of Supervisor's meeting.

I. ENGINEERING – Mr. C. Robert Wynn, Township Engineer – None.

J. MYLARS FOR SIGNATURE: Weidner Tract Subdivision

K. PUBLIC COMMENT:

1. Mr. Jack McIlhinney of Broad Street felt that the Board meeting in Executive Session prior to their May 12, 2003 worksession meeting to discuss "fact-finding" was a violation of the Sunshine Law. Solicitor Grabowski was not present at the May 12, 2003 worksession meeting or the Executive Session, and therefore is not aware of what was discussed at that time. If the Supervisors met with an individual that provided them with information, which was a fact-finding conference, and then met in Executive Session to discuss personnel or legal matters, Solicitor Grabowski suggested they revise or amend their statement at the May 12, 2003 worksession meeting to advise that a fact-finding conference was held and then followed by an Executive Session. Mr. McIlhinney asked under what circumstances can three Supervisors meet to discuss fact-finding, in a room that the public has no access to. Solicitor Grabowski replied that the Supervisors can do that at any time. Mr. McIlhinney asked under what section of the Sunshine Law is that referred to. Solicitor Grabowski explained that the Sunshine Law refers to a quorum of the Board of Supervisors meeting to deliberate, discuss or to make a decision, however it does not prohibit the Supervisors from being present in a meeting together to hear information. Mr. McIlhinney commented that fact-finding is done to reach a conclusion, and three Board members meeting, which in itself, is incorrect. Solicitor Grabowski asked the Board of Supervisors if they reached a decision after listening to fact-finding at that meeting. They replied that they did not. Then, Solicitor Grabowski stated, that part of the premise falls. Mr. McIlhinney asked what was being discussed during this fact-finding conference. Chairperson Snyder replied that the Supervisors were provided information by the chairperson of the Open Space Committee, they did not discuss any issues. Mr. McIlhinney disagreed with Solicitor Grabowski's opinion on this matter, and believes that he may pursue it at a later date upon further review of the Sunshine Law.

2. Mr. Harry Mason of Morgan Lane attended the two previous H & K Quarry Rezoning hearings, where individuals who had signed the list were called to ask questions. However, he noted that very often the questions asked were not answered because H & K representatives have changed their method of procedure. Many of those questions were answered with the response that the issue would be covered at a later hearing. It appears to Mr. Mason that those individuals who did not have their questions properly answered have lost their turn to speak or to question H & K representatives. He hopes that the Supervisors will allow those individuals the opportunity to add their name to the list for dialogue at a future meeting.

Solicitor Grabowski was the moderator at those two hearings. He does not feel that the procedure was changed dramatically. Following each witness, the Township will permit

questions by anyone present. Privately, Solicitor Grabowski told each individual who had a question or comment that if they had additional questions or comments as hearings progressed, they would be given the opportunity to ask them.

L. SUPERVISOR'S COMMENTS:

1. Supervisor Bennington thanked the Park and Recreation Board, Mrs. Gery, and his fellow veterans for the very short Memorial Day celebration, due to the weather, at the Hilltown Civic Park on Monday, May 26, 2003.

2. Supervisor Bender announced that he would not be present at the July 14, 2003 worksession meeting.

M. PRESS CONFERENCE: No reporters were present.

N. ADJOURNMENT: Upon motion by Supervisor Bennington, seconded by Supervisor Bender, and carried unanimously, the May 27, 2003 Hilltown Township Board of Supervisors Meeting was adjourned at 9:30PM.

Respectfully submitted,



Lynda Seimes

Township Secretary

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