

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED WORKSESSION MEETING
Monday, September 11, 2000**

The regularly scheduled worksession meeting of the Hilltown Township Board of Supervisors was called to order by Chairperson Kenneth B. Bennington at 7:36PM.

Also present were: John S. Bender, Vice-Chairperson
E. Diane Parks, Supervisor
Gregory J. Lippincott, Township Manager
Thomas A. Buzby, Director of Public Works
Lynda S. Seimes, Township Secretary

Chairperson Bennington announced the Supervisors met in Executive Session following the August 28, 2000 meeting in order to discuss legal and personnel matters; and also met prior to this meeting in order to discuss legal and personnel matters.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY: None.

B. APPROVAL OF MINUTES – Action on the minutes of the August 14, 2000 Worksession Meeting – Chairperson Bennington noted the following correction to page 13, item #1 under “Public Comment,” which should state “Chairperson Bennington replied there would be approximately \$650,000.00 raised per year.”

Motion was made by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously to approve the minutes of the August 14, 2000 worksession meeting, as corrected. There was no public comment.

C. APPROVAL OF CURRENT BILLING: Chairperson Bennington presented the Bills List dated September 12, 2000, with General Fund payments in the amount of \$22,405.56. Chairperson Bennington questioned the bill from Jaeger Electric Service, Inc. in the amount of \$254.76 for electrical repair due to lightning damage. Mr. Lippincott explained the Police Department was struck by lightning during a recent storm, which damaged the radio, one computer and surge protector for a modem, one printer, and the outlet box. This bill for repair will be submitted to the insurance carrier for coverage.

Motion was made by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously to approve the Bills List dated September 12, 2000. There was no public comment.

D. TREASURER’S REPORT – Chairperson Bennington presented the Treasurer’s Report with the following balances as of August 31, 2000:

General Fund Checking Account	\$ 133,565.35
Payroll Fund Checking Account	\$ 1,119.25
General Reserve Fund	\$ 552,926.23
Fire Fund Checking Account	\$ 58,730.72
Debt Service Checking Account	\$ 132,790.34
State Highway Aid Checking Account	\$ 192,533.92
Escrow Fund Checking Account	\$ 274,056.16
Capital Projects Fund	\$ 137,695.81

Motion was made by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously to approve the Treasurer's Report as of August 31, 2000, subject to audit. There was no public comment.

E. PUBLIC WORKS REPORT – Mr. Thomas A. Buzby, Director of Public Works – Mr. Buzby read the Public Works Report for the period of July 30th – August 26, 2000; a copy of which is on file at the Township office.

With regard to the storm sewer installation project on Welcome House Road, Mr. Buzby explained that the crew hit solid rock and were forced to rent a hydro-hammer to break the rock, thereby slowing the process.

Mr. Buzby and Mr. Lippincott attended a recycling seminar on Wednesday, August 30, 2000 and received a great deal of useful information. The Township has applied for the DEP Recycling Grant, which should provide approximately \$5,000.00 of funds this year, and approximately \$20,000.00 of funds in the year 2001. Funding is based on the amount of recyclables the Township's licensed trash haulers remove from the Township. These funds can be used for whatever purposes the Supervisors wish. Supervisor Parks asked the status of the Yard Waste Grant application. Mr. Buzby explained that the Supervisors must choose a definite site with water service available. Chairperson Bennington questioned the reasoning for water availability to the site. Mr. Buzby advised that DEP recommends a specific moisture content remain on the site in order to prevent a fire hazard. Grant submissions will close shortly for this year, however submissions will be available in the year 2001. Mr. Buzby has also received a form to complete to receive up to \$5,000.00 of DEP engineering services provided free. Mr. Buzby will be visiting existing yard waste operation sites at other municipalities, one of which provides for surveillance cameras on site, rather than an attendant on duty. Supervisor Parks commended Mr. Buzby for looking for other ways to meet the requirements of the grant without the overhead of an individual working on site. With the additional funding the Township may be receiving on a yearly basis, Mr. Buzby suggests those funds could be set aside for continuation of the recycling program.

Supervisor Bennington asked the status of the drainage problem on South Perkasio Road near Mr. Brennan's home. Mr. Buzby replied that he has been discussing this issue with Mr. Wynn. One of the property owner's Mr. Buzby spoke with initially had no problem with the issue, however since that time, that same property owner has requested to review a diagram. Mr. Wynn is in the process of applying for permits for this work. Mr. Buzby hopes that this project will be complete before the winter weather sets in.

F. POLICE REPORT - Chief Trauger was not present. A copy of the Police Report for the month of August, 2000 is on file at the Township office.

Chief Trauger indicated to Chairperson Bennington that 41 bicycle safety helmets have been distributed through the Bicycle Safety Program, and the gun lock program has also been a success, with more on order.

Chairperson Bennington requested a report from Chief Trauger detailing what a motorist should do if stopped by an individual they are not certain is an actual police officer. A similar incident recently took place on the Blue Route and he is very concerned.

During informal discussions with the Police Department, the Supervisors have addressed the issue of excessive speed in the Township. Supervisor Parks stated that Pennsylvania is apparently the only state that does not permit use of local radar. There was an article in the Daily Intelligencer recently advising that officials are pressing legislators to permit local radar use, and Supervisor Parks would like to encourage Chief Trauger to prepare a recommendation for the Board of Supervisors so that Hilltown Township's support of local radar use can be provided to the Legislature.

G. BUILDING REPORT - Mr. Taylor was not present. A copy of the Building Report for the month of August, 2000 is on file at the Township office.

H. HILLTOWN FIRE COMPANY REPORT - No one was present from the Hilltown Fire Company.

I. HILLTOWN AUTHORITY REPORT - Mr. James C. Groff, Operations Manager - Mr. Groff read the Authority Report for the month of August, 2000.

Mr. Groff advised that the fencing and paving is complete at the water tank site.

Recently, the Authority has mowed the area around the Pleasant Meadows Subdivision, through the easements of the sewer lines that run through the open space along the creek, on the north side of the subdivision.

As discussed at the last Supervisor's worksession meeting, the Citizen's Liaison Committee concerning the proposed sewage treatment facility will be comprised of six individuals, with one from the original section of Quiet Acres, one from the newer section of Quiet Acres, one from Pheasant Hill Road, one from Highland Park Road, one from A & T Chevrolet, and one from the Rockhill Mennonite Community. Mr. Groff will meet with the Citizen's Liaison Committee prior to the joint meeting of the Hilltown Township Board of Supervisors and Hilltown Township Water and Sewer Authority Board on Wednesday, on September 27th.

Well #5, located just north of the Township Building on Rt. 152, will be having major landscaping work done around the well house in the near future.

The sanitary sewer project at the Longleaf II Subdivision has been completed, with stormwater work recently begun. Water main construction, according to the developer, is to begin early next week.

J. SILVERDALE FIRE COMPANY REPORT – Mr. Keith Seifert, Fire Chief – Mr. Seifert read the Silverdale Fire Company Report for the month of August, 2000; a copy of which is on file at the Township office.

K. PLANNING COMMISSION REPORT – Mr. John Kachline, chairperson – Mr. Kachline advised that the following items were discussed and actions taken at the Planning Commission worksession meeting of September 7, 2000:

1) Papiernik Subdivision Barn – Discussed the options listed in the Supervisor's memo of August 16, 2000, and unanimously propose the following recommendation: "Option 6 – all fees and costs of demolition of said barn that Heritage Building Group would incur if they were to demolish the barn. This is estimated at \$30,000.00, based upon a report by a Planning Commission member who was directly involved in demolishing a similarly sized barn three years ago. This cost includes the demolition, removal of debris, and restoration of the site to its natural state. These funds can also be used toward the cost of relocation of the barn, with no waiver of two tot lots to be granted to Heritage Building Group. If, however, the two tot lots are waived, then the additional \$30,000.00 agreed upon for waiver of those tot lots would be added to that cost, for a total contribution of \$60,000.00 from the developer. This option would pertain to any person or business who wished to relocate the barn from that site, and was willing to incur the total cost of relocation, less the \$60,000.00 provided for by Heritage Building Group."

Chairperson Bennington asked if a copy of the estimate to move the barn had yet been received. Mr. Lippincott advised that no reply to his initial request has been received from Mr. and Mrs. Griffo, the neighboring property owner to the Papiernik Subdivision.

2) Review of Revised Agricultural District – Review could not be complete due to the numerous revisions by Mr. Wynn. The Planning Commission does not understand Mr. Wynn's reasons for the changes and does not agree with quite a bit of it. The Planning Commission would like to meet with Mr. Wynn at their next worksession meeting of October 2, 2000. Chairperson Bennington suggested the Planning Commission meet with Mr. Wynn following their next meeting, and if additional time for review is required, Mr. Wynn would be directed to attend the October 2, 2000 worksession meeting.

3) Planning Seminars Keith Miller and Brooke Rush will be attending the Municipal Planning Code Review Course held on October 16th, 23rd, and 30th, as directed by the Supervisors. Bill Bradley will attend this same course in the spring of 2001.

L. PARK AND RECREATION REPORT – Mr. Nick Lupinacci, chairperson – Mr. Lupinacci read the Park and Recreation Report for the month of August, 2000.

At the last Park and Recreation Board meeting, Ms. Karen Williamson of Spotts, Stevens, and McCoy, professional recreational planners, was present for discussion of the proposal for the Forest Road property. Ms. Williamson submitted a detailed cost estimate for the planning stage of the Forest Road property.

The Park and Recreation Board was pleased to discover the results of the Comprehensive Plan Task Force Questionnaire, indicating that walking and biking trails are the number one item that residents would like to see more of in Hilltown Township.

With regard to the Park and Recreation Board's recommendation concerning the park use fee schedule, Mr. Lupinacci requested and received fee schedules from numerous municipalities, including Hilltown's neighboring townships and boroughs. It appears that most of these user fees are based upon non-resident costs, though some municipalities require user fees for both non-resident and resident participants. The Park and Recreation Board hopes to have a recommendation for the user fee schedule in November.

M. OPEN SPACE COMMITTEE REPORT – Mr. Chuck Kulesza, chairperson – Mr. Kulesza read the Open Space Committee Report for the month of August, 2000.

The Open Space Committee held their Trail Review last weekend, beginning at Keystone and Schoolhouse Roads, traveling in the western direction of the Township to Diamond and Orchard Roads, through Longleaf and Orchard Glen Subdivisions, and towards C.D. Moyer. The Committee then traveled north on Rt. 152 to South Perkasic Road, which is a crucial area they hope to link to the Perkasic trails. The Committee also traveled the Blooming Glen Road area, which contains some very scenic viewsapes. The Committee

then reviewed several properties near Telford, with hopes of securing a small park in that area.

Representatives of the Open Space Committee will meet on Monday, September 18, 2000 at the Quiet Acres Community Clubhouse with their residents to answer questions and make a presentation of the Open Space Referendum that will be on the ballot in November. On Tuesday, September 26, 2000, the Hilltown Civic Association has asked the Open Space Committee to appear at their meeting to discuss open space issues. On Tuesday, October 10, 2000, the Open Space Public Forum will be held here at the Municipal Building. Mr. Kulesza spoke with Mr. Michael Frank of the Heritage Conservancy who will also be present at that meeting to speak on the issue of preservation of open space, in particular the cost analysis of purchasing open space. Mr. Frank recently authored a pamphlet called "Opportunity Knocks" which details the advantages to purchasing open space properties.

Mr. Kulesza was not surprised by the Comprehensive Plan Task Force Questionnaire results, noting that some residents were reluctant to pay additional taxes for the purchase of open space. It is his hope that the upcoming Open Space Committee meetings will be very informative.

N. LEGAL ISSUES: Chairperson Bennington advised that there are two lawsuits against the Township which have been outstanding for quite some time that will come to fruition this evening. Supervisor Parks will read a position paper concerning the Hilltown Chase Subdivision. Following that, Solicitor Grabowski will explain the process and thinking that went into the agreement for the Hilltown Chase Subdivision. Chairperson Bennington will then read a position paper concerning the C.D. Moyer property, with Solicitor Grabowski explaining the process involved with the agreement for the C.D. Moyer property.

HILLTOWN CHASE LITIGATION

Supervisor Parks read a Hilltown Township Position Paper regarding Hilltown Chase Litigation, which is attached and has become a part of these official minutes.

Solicitor Grabowski explained that the Hilltown Chase Subdivision plan was denied by the Supervisors at their meeting of November 24, 1999, due to the proposed location of the sewage treatment package plant. Based upon that denial, an appeal was filed by the developer in late 1999. No action was taken for approximately four or five months. In June or July of 2000, the developer contacted the Township to determine if they would be interested in discussing a compromise of the matter, thereby possibly reducing the number of lots. Solicitor Grabowski, the previous Township Manager, the Assistant Township Manager, and the Township Engineer met with representatives of the Elliott

Building Group and their legal counsel, at which time, the applicant offered a reduction of lots to 44. The Township representatives at that meeting advised they had no authority to make that decision, and their offer was then discussed with the Board of Supervisors. The Supervisors then sought the opinions of all of their experts, including the Township Engineer, Township Solicitor, Township Traffic Engineer, and Township Planning Consultant. At that time, the number one issue was density, and the feeling was that the proposal of 44 lots was not acceptable. Negotiations broke down and there were several attempts by the developer to suggest other alternatives, however no agreement could be met. At that point, a mandatory judicial conference was scheduled. Solicitor Grabowski explained that when an appeal is filed in court, the assigned judge has six months for action. Every judge must report to the Supreme Court with a status sheet. The conference was a mandatory meeting held in judge's chambers with the purpose to determine if the issues have remained the same and if any movement towards reducing the scope of the dispute had been made. If not, the next step is scheduling time for a legal argument, which includes the preparation of legal briefs and an argument by the legal counsel for both the developer and the Township, to determine whether the original action taken by the Township was reasonable. Judge Heckler met with the two legal counselors jointly and separately to discuss this issue. Judge Heckler told Solicitor Grabowski that Hilltown Township rejected a plan for one reason, the location of a sewer plant; and noted that the developer had offered to relocate the sewer plant to whatever location the Township felt appropriate. Judge Heckler was aware that the developer had made a proposal to reduce the density of the development to 44 lots, and quite bluntly suggested that the Township accept that offer. The Supervisors were very conscious of the 1998 Ordinance prior to the Cluster Ordinance, which would have allowed for 39 lots. Mr. Lippincott and Solicitor Grabowski then met with the Elliott Building Group and their attorney, who agreed to reduce the density to 41 lots. A Settlement Stipulation has now been signed by the Township and the developer, which is now in Judge Heckler's hands, who will most likely be signing it tomorrow.

Public Comment:

1. A reporter asked the status of the lawsuit concerning a violation of the Sunshine Act. Solicitor Grabowski explained that the Board of Supervisors at that time consisted of William Bennett, Kenneth Bennington, and John Bender. At one point, there was no decision made and there were actually two conflicting motions on the table that had no second, since Supervisor Bender had already recused himself from voting on the matter. Solicitor Grabowski had recommended an Executive Session in order to explain to the Board of Supervisors the significance of what any decision, including a deemed approval, would be. That action was alleged by the developer to be a violation of the Sunshine Act, though Solicitor Grabowski does not believe that it was.

2. A reporter asked what fee was charged by Attorney Scott Maxwell, who provided an independent legal opinion, to further represent the Township. Mr. Lippincott was not certain of the exact fee, however he believes it was less than \$1,000.00. Mr. Lippincott agreed to provide that exact amount to the reporter in the morning.

3. Ms. Lisa Kozlowski, a reporter for the Morning Call, asked the Supervisor's overall opinion of the outcome of this lawsuit. Supervisor Parks commented that this matter was a great opportunity to see what the Township can do when we all stand together, united behind our value system. From the very beginning when community residents spoke out about the issue of density in the Cluster Ordinance, the Township had a team that managed to prevail in getting our community values represented. Supervisor Parks feels this settlement is a great accomplishment for Hilltown Township, and proves that Hilltown Township, as a community, has no fear of standing up for our rights. Under the circumstances, Supervisor Bender stated that the Township was very fortunate in being able to resolve this issue. Besides the matter of density, another important concern was the extension of the public sewer system into the Rural Residential Zoning District. Therefore, the solution of having a shallow sewer system with individual grinder pumps, which will prevent this system from being extended into the RR District, addresses that concern. Chairperson Bennington believes the stand that the Board of Supervisors took that evening resulted in the final decision for the Township, which is very, very favorable. He does not believe this settlement sets a precedent for contiguous properties.

4. Ms. Zlati Myer of the Philadelphia Inquirer asked when the Cluster Ordinance was repealed. Supervisor Bender replied that the Cluster Ordinance was repealed on June 28, 1999.

C.D. MOYER LITIGATION

Chairperson Bennington read a Hilltown Township Position Paper regarding C.D. Moyer Litigation, which is attached and has become a part of these official minutes.

Solicitor Grabowski noted that the C.D. Moyer meat packing plant was established in the early 1900's, and the property has been abandoned for the past few years. When Heritage Building Group purchased this property their original plan was for the construction of a proposed farmer's market and a specialty shopping center. Once the developer made a determination that the existing buildings would be unable to withstand the design and the proposed uses they preferred, they took advantage of the same Ordinance #98-13, that Supervisor Parks spoke of earlier. In May of 1999, Heritage Building Group filed a preliminary plan proposing a 66-unit multi-family housing development, with approximately half of those units to be garden apartments. The farmer's market concept was still being discussed by Heritage at that time, however

approximately a month ago, the developer informed the Township that they were reluctant to proceed with that proposal. The Township's Building Inspector and other experts were dispatched to the site to examine the buildings, and a determination was made that they were unsafe structures. Within days, the Township issued a Notice of Condemnation and Demolition to the Heritage Building Group to demolish the buildings. The developer's concern, which is not listed within the printed statement, was to preserve the ruling they had obtained from the Zoning Hearing Board in a decision that goes back to January, 1999, to preserve the 41,000+ sq. ft. that existed as a non-conforming use. Solicitor Grabowski explained that "non-conforming use" is a legal term that means if there is a use that pre-dates zoning, it can remain and be "grandfathered," notwithstanding what the zoning laws might be changed to in future years. Therefore, Heritage was concerned that the commercial/industrial use that existed on the site since the 1900's, would be preserved for something other than high-density residential development, for which the property is currently zoned. This site is within the high-density district of the Township. After the Notice of Condemnation was issued, the Township officials spoke with Heritage Building Group concerning a time schedule by which the buildings would be demolished, if not by them then by the Township. In the interim, the developer filed an appeal of the Township's decision last Thursday with Bucks County Court. Solicitor Grabowski and Mr. Lippincott met last Friday with representatives of Heritage Building Group to determine the agreement by which the developer is willing to construct the concept of the office campus as depicted by the photograph that is available this evening. Solicitor Grabowski noted that this photograph is of an existing office campus in Buckingham Township, which will be the prototype for the developer's proposal in Hilltown. The uses Chairperson Bennington mentioned in the prepared statement are very specific and very limited. For example, the day care center use is listed in the Township's Zoning Ordinance. The Township was able to extract quite a few other limitations and conditions for that use, which the Supervisors feel are much more in tune with the state-of-the-art type of daycare use they would like to see in Hilltown Township. Most importantly, Hilltown Township has entered into a Stipulation, which has also been filed with Bucks County Court, that provides for the demolition of the existing buildings. The developer hopes to have contractors on the site by the end of this week to begin the demolition process.

Public Comment:

1. Mr. Nick Lupinacci asked if the photograph as presented this evening has been approved. Supervisor Parks explained that the photograph is a concept drawing of a similar installation in another community. Mr. Lupinacci is concerned that the proposed walking trail will continue through that property. Solicitor Grabowski noted that the Township Manager was absolutely insistent that the proposed walking trail through the C.D. Moyer tract would remain, and will be incorporated in the plan through the rear of the property up to Rt. 152.

Supervisor Bender commented that this new proposal also enables a better alignment of the intersection at the site. Solicitor Grabowski explained the original proposal for the farmer's market using the existing buildings would have prevented an absolutely true crossing to the proposed Orchard Hill Subdivision across Rt. 152. There is a traffic signal being required as part of the Orchard Hill Subdivision approval, and this proposal will allow that to occur.

Solicitor Grabowski presented a sketch of the proposed office complex, with separate two-story buildings in a campus-like setting with parking in the center of the site and the day care center to the rear of the site, so that it remains totally insulated from traffic on Rt. 152. The day care center will also be adjacent to the new school in Silverdale, which the Board feels is very appropriate for that use.

2. Mr. Keith Seifert, chief of the Silverdale Fire Company, asked the time frame for submission of plans by the developer. Chairperson Bennington advised the first priority is to demolish the buildings.

O. CONFIRMED APPOINTMENTS:

1. Mr. Adolph Jager -- Township Open Space Use Request -- Mr. Jager is requesting possible agricultural use of Township open space in the Longleaf II development to graze his sheep. Mr. Jager had previously been directed by the Board to appear before the Park and Recreation Board with his request so that they could provide a recommendation to the Board of Supervisors, however that particular Park and Recreation Board meeting was cancelled due to lack of quorum. Mr. Nick Lupinacci, chairperson of the Park and Recreation Board, advised that Recommendation #99-1 was made last year, to deny the agricultural use of Township owned open space. However, Mr. Lippincott recalls that the Park and Recreation Board made a recommendation this year with regard to prohibiting fencing of Township open space, with the feeling being it would defeat the purpose of the definition of "open space." The Township does permit use of open space for natural fields and planting of crops. Mr. Jager argued that the Township requires fencing around basins that are located in open space areas. Chairperson Bennington suggested Mr. Jager meet with the Park and Recreation Board at their meeting of September 14th. Mr. Jager will be present at the September 14, 2000 Park and Recreation Board meeting for further discussion. Following a recommendation from the Park and Recreation Board, the Supervisors will render their decision at their September 25, 2000 meeting.

P. MANAGER'S REPORT – Mr. Greg Lippincott, Township Manager –

1. The Emergency Management Plan has been completed and forwarded to the Emergency Management Coordinator and Assistant Coordinator, who have suggested some revisions. The Plan is before the Board for adoption this evening.

Supervisor Bender suggested that the Hilltown Township Water and Sewer Authority be included in the Additional Resource List, and Supervisors Parks and Bennington agreed.

Motion was made by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously to **adopt Resolution #2000-24, approving the Hilltown Township Emergency Management Plan, contingent upon the inclusion of the Hilltown Township Water and Sewer Authority resources in the Additional Resource List; and with the adoption of the accompanying Promulgation.** There was no public comment.

2. Chief Trauger and Mr. Lippincott will be attending tomorrow night's Emergency Management Drill for Dublin Borough. The actual exercise will take place on Sunday, September 17, 2000.

3. Notification has been received from the Bucks County Board of Elections reminding the Township of the upcoming election on November 7, 2000, and requesting that the polling places in Hilltown Township be open at 6:30AM.

4. Hilltown Township will be hosting the next DEP meeting concerning the water contamination problem in Bedminster Township on Wednesday, October 18, 2000, at 7:00PM.

5. Mr. Guttenplan's report concerning the most recent Comprehensive Plan Task Force has been presented for review.

6. Mr. Lippincott presented the August Zoning Report for review.

7. There are six escrows for the Board's consideration this evening, one of which, Bricks Villa Phase I and II, is cash held by the Township:

Bricks Villa Phases I & II	Voucher #11A	\$ 1,029.13
Country Roads Phases II, III & IV	Voucher #10A	\$ 702.77
Grasse Elementary School	Voucher #04	\$ 132.28
Longleaf Estates Phase I	Voucher #45	\$ 2,611.90
Longleaf Estates Phase II	Voucher #03	\$ 1,740.75
Lynrose Estates	Voucher #10	\$ 692.74

Motion was made by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously to release the six escrows as noted above. There was no public comment.

Q. CORRESPONDENCE – Mr. Greg Lippincott, Township Manager --

1. Correspondence was received from Spotts, Stevens, and McCoy, Inc. concerning the park master planning process for the recently purchased open space on Forest Road.

2. Correspondence has been received from Mr. Dave Hersh of Schiller and Hersh Assoc., who performed a preliminary analysis of the HVAC system in this building. Mr. Hersh would be happy to discuss his findings with the Board if that is their desire.

3. Supervisor Parks referred to a recent newspaper article advising that Lower Salford Township will be getting a new post office for centralizing their carrier base delivery. Supervisor Parks encouraged Mr. Lippincott to make another attempt with the U.S. Postal Service to permit Hilltown Township to have a home-delivery post office.

R. MYLARS FOR SIGNATURE: None.

S. PUBLIC COMMENT:

1. Mr. Charles Schaefer of 109 Schultz Road thanked the Board for a job well done with regard to the settlements for the Elliott Building Group and the C.D. Moycr property.

T. SUPERVISOR'S COMMENTS:

1. Supervisor Parks thanked the entire team that worked on these two legal settlements, which entailed a long, complicated process that required a great deal of negotiations and discussions. She believes this proves that the Township will not give up and will fight these types of issues as long as they are rational and reasonable to retain the rural nature of Hilltown Township.


2. Supervisor Parks advised that there will be another Hazardous Waste Collection on Saturday, September 23, 2000 at the Quakertown Community Swimming Pool on Mill Street in Quakertown.

3. Supervisor Bender mentioned the prestigious Dave Nyman Award that Chairperson Bennington received on opening day of Deep Run Sports Association for his 21 years of coaching service.

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

V. ADJOURNMENT: Upon motion by Supervisor Parks, seconded by Supervisor Bender, and carried unanimously, the September 11, 2000 worksession meeting of the Hilltown Township Board of Supervisors was adjourned at 9:08PM.

Respectfully submitted,


Lynda Seimes
Township Secretary

HILLTOWN TOWNSHIP POSITION PAPER
REGARDING HILLTOWN CHASE LITIGATION

The Township of Hilltown wishes to announce a Court directed settlement to the Hilltown Chase subdivision preliminary plan denial as well as to announce that it has agreed to a legal settlement of three outstanding lawsuits filed against the Township by Elliott Building Group, Ltd. regarding the proposed Hilltown Chase project.

The three separate lawsuits were the result of action taken by Hilltown Township on November 24, 1999 by voting to deny Elliott's preliminary subdivision plan by a vote of 2 - 0 with Supervisor Bender abstaining from the vote. The reason for Supervisor Bender's abstention from the vote was his prior announcement, as previous Chairman of the Hilltown Township Water and Sewer Authority, concerning sanitary sewage service to the proposed Hilltown Chase development. The Board's sole reason for the denial of the preliminary subdivision plan was the location of the proposed sewage treatment plant upon the property.

A summary of the history of this matter will help to explain the decision made by the Township. The Elliott property is approximately 51.7 acres in size and is zoned RR Residential under the Hilltown Township Zoning Ordinance. Under the Hilltown Township Zoning Ordinance prior to October 28, 1998, the RR Residential Zoning District would have allowed 39 single family units upon the Elliott property. On October 28, 1998, the Board of Supervisors approved Hilltown Township Ordinance No. 98-13 which amended the Zoning Ordinance to allow for the development of residential homes on building lots as small as 7,500 square feet in the RR zoned district.

On December 30, 1998, Elliott filed with the Township a sketch plan proposing to subdivide its property into multiple residential building lots with a site capacity calculation of 55 single family homes to be served with public water and public sanitary sewer service.

Subsequent to the filing by Elliott of its plan, Hilltown Township repealed Ordinance No. 98-13; and effectively removed the cluster concept provision from the Zoning Ordinance.

Following review of the sketch plan by the Hilltown Township Planning Commission at its meetings on January 18, 1999 and March 15, 1999, Elliott filed a preliminary subdivision application on April 23, 1999 to subdivide the property into 50 single family building lots.

After various meetings, the Hilltown Township Planning Commission voted to make no recommendations to the Board of Supervisors to either approve or deny the plan.

With the decision of this Board on November 22, 1999 to deny Elliott's preliminary subdivision plan, Elliott stated that it would consent to the Board's imposition of a condition that the location of any on-site sewage treatment plant would be acceptable; and that it would relocate the sewage treatment plant to meet the guidelines of the Pennsylvania Department of Environmental Protection, Hilltown Township and Hilltown Township Water and Sewer Authority.

Elliott then filed three separate lawsuits against Hilltown Township. The first lawsuit was a Land Use Appeal appealing the Township's decision to deny the preliminary subdivision plan.

The second lawsuit filed requested injunctive action against the Township for alleged violations of the Pennsylvania Sewage Facilities Act and the Pennsylvania Sunshine Act. The third separate lawsuit alleged deficiencies in the preparation and proposed enactment of the Hilltown Township Sewage Facilities Plan update to exclude the proposed Hilltown Chase subdivision project.

From the Township's perspective, there were three significant issues which it needed to address in this matter. Those issues included the requirement of a through street providing access from existing Beverly Road to the proposed Hilltown Chase project. The second issue was whether the developer should be allowed to construct a sewage treatment plant on-site to be operated either by a homeowner's association, by the Township or the Hilltown Township Water and Sewer Authority. The third issue was the density proposed by the application.

As to the first issue of the connection of the proposed housing development to Beverly Road, the Township reviewed the original plans of the Beverly Road housing project. The original plans for that development confirm that the existing cul-de-sac on Beverly Road was intended for further extension at whatever point adjacent lands would be developed. Additionally, the Township requested the opinion of the Township Road Department, the Township's Engineering Consultants, the Township's Traffic Engineer and the Township's Planning Commission. All the Township's experts agreed that the existence of a housing development upon the Hilltown Chase property, if approved, should be interconnected with Beverly Road for safety purposes, for example, the ability of emergency vehicles and utility vehicles to travel from Telegraph Road to Route 152.

The second issue relates to the construction of a sewage plant upon the site. It has been, and remains, the position of Hilltown Township that sewage plants should not be constructed within a residentially Zoned District of Hilltown Township and additionally to not allow sewer line extensions into the RR District. The Township's Act 537 Plan Update provides for the construction of a treatment facility by the Hilltown Township Water and Sewer Authority on Highland Drive in a Light-Industrial Zoned District. Therefore, from a planning standpoint and an engineering standpoint, it makes little sense to construct a sewage plant upon the Hilltown Chase site. The Hilltown Authority has also expressed its concern about operating a stand alone sewer plant at this location; and

the Township has concerns about the operation of such a facility by a homeowner's association. For these reasons, the Township is of the opinion that the project should be served by public sanitary sewage collection lines which connect to the existing collection system of the Hilltown Township Water and Sewer Authority with treatment to occur at the planned facility of HTWSA.

Under the terms of the mandated settlement, the collection system within the proposed development shall be limited to a shallow line system with individual grinder pumps installed on each residential lot, owned and maintained by the property owner. Thus, the system will not be a gravity system which can be extended or expanded in the future. The individual grinder pumps shall be installed underground in each lot; and shall be the type approved by our own Hilltown Authority.

The third issue is the issue of density upon the property. The Township has reviewed this matter from the standpoint of the original Zoning Ordinance. In reviewing the matter, the Township's planning experts have indicated that the pre-98-13 Ordinance would have provided the developer to have the ability to subdivide the property into 39 single family lots. Prior to the conference with Judge Heckler, the developer did propose a settlement of the lawsuits by reducing the number of lots upon the proposed project to 44 lots. This offer by the developer was rejected by the Township through its Solicitor. At the judicial conference with Judge Heckler, the Judge spent considerable time with both sides encouraging a negotiated settlement. He reviewed the one issue on which the denial was based with the Township; and he reviewed the Township's issues of density and sewer plant location extensively with the developer. Judge Heckler made it very clear to Hilltown Township that without any type of compromise, the plan would ultimately be approved both with 50 lots and a sewer plant located at a location desired by the Township. Additionally, the separate lawsuits would then also need to be addressed by way of Court hearings.

The Township, over the past several weeks, have received questions regarding when the "hearing" would be held in the Land Use Appeal. It must be understood that there would have been no "hearing" in this matter. The decision by the Township to deny the plan was as a result of a hearing. The denial was then appealed to the Court by the developer. The next action would have been legal argument as to why the denial by the Township was reasonable or unreasonable. No additional testimony is given at a legal argument; however the matter is based upon the original record from the Township meeting at which the decision was made.

The Township, in reviewing the various issues, has reached the determination that although all three issues were important, the most important community issue involved is the density of the property. Following additional discussions and negotiations prodded by Judge Heckler, the developer has now agreed to reduce the density of the proposed project to 41 lots. This represents a reduction from a potential maximum of 55 lots arguably allowed under the cluster option in effect at the time of the submission of the plan and a reduction from the 50 lots on the preliminary plan proposed by the developer

to a number of 41 -- two more than which would have been allowed under the original Hilltown Zoning Ordinance prior to the enactment of the cluster option amendment. The lots will increase in size to a minimum average of 20,000 square feet with an average lot size of 32,372 square feet. Ordinance No. 98-13, in effect at the time of the filing of the Hilltown Chase plan, allowed for a minimum lot size of 7,500 square feet. The current minimum lot area is 15,000 square feet. By way of further illustration, the existing Beverly Road subdivision contains lots which range in size from 30,000 square feet to 43,107 square feet with an average lot size of 32,382 square feet. The minimum lot width shall be 100 feet; and the project shall be served with public water and public sewer through the Hilltown Township Water and Sewer Authority.

We have, therefore, reached an Agreement with Elliott Building Group regarding the reduction of density to 41 homes, the interconnection of Beverly Road with the development and the provision for public sanitary sewer service by the installation of a low pressure sewage conveyance system.

The proposed internal road has been relocated in an attempt to provide for further shielding of visibility from Telegraph Road. Additionally, a portion of the open space plans as identified upon the plan will be allowed to be transferred to an adjacent owner of Tax Parcel No. 15-28-208-1, John Thompson, under the condition that Mr. Thompson agree to a conservation easement over his entire property and to also permit the Township to construct a walking trail along the frontage of his property on Telegraph Road. The conservation easement will mean that the Thompson property will not be further developed. Additionally, Elliott will construct a landscape berm along the frontage of the property on Telegraph Road in open space areas A and E.

Elliott will withdraw all three separate filed lawsuits against Hilltown Township and further agrees that it shall take no further legal action against Hilltown Township either in Pennsylvania State Courts or in the Federal Court system.

The lawsuits filed were the subject of a mandatory conference before Judge David Heckler of the Bucks County Court of Common Pleas within the past two weeks. The announced reaction of Judge Heckler at the Judicial Conference suggested to us that the plan, as originally filed, would be approved by the Court with the only issue of the location of the sewage plant upon the site to be further addressed. The Township's decision has always been to minimize the impact of the development upon the neighbors and upon the Township in general. It became very apparent that the best that the Township would receive by pursuing and defending the litigation would be to have a project of 51 homes, a connection to Beverly Road and the construction of a sewage plant in the middle of the development and also in the middle of the existing residential zone of Hilltown Township to possible be maintained and operated by a homeowner's association. This also then would allow for the continuation of the remaining two separate lawsuits which could have an effect upon the status of the Township's present sewage facilities plan; and also the veiled threat of additional further action by the applicant.

In addition to the Township receiving advice and counsel from its various consultants including the Authority Engineer, a Traffic Engineer, a Planning Consultant, the Township Solicitor and others, the Township also obtained an independent legal opinion of the law firm of Hamburg, Rubin, Mullin, Maxwell and Lupin. Attorney J. Scott Maxwell, the President-Elect of the Montgomery County Bar Association and Solicitor to various municipalities and municipal authorities within Montgomery County, presented the Township with a position and opinion letter in which he stated that the reduction in the number of lots to be constructed is a major concession by the developer and an extraordinary settlement for the Township.

Given a Judicial mandate by Judge Heckler to settle these cases, Hilltown Township aggressively pursued a compromise on its terms. The result is 41 homes and no sewer plant in the RR Residential District.

**HILLTOWN TOWNSHIP POSITION PAPER
CONCERNING C. D. MOYER APPEAL**

The Heritage Building Group is the owner of three parcels of property located on Route 152 just outside of Silverdale; and which is often referred to as the former C. D. Moyer Meat Packing plant.

Heritage applied in 1998 to the Hilltown Township Zoning Hearing Board to provide for a change of the non-conforming use of the property, a meat packing plant and warehouse, to a combination of a specialty shopping center, office use and warehousing which was granted with the condition that the proposed buildings not exceed a total of 41,651 square feet. The original intent according to Heritage was to use the property as a farmer's market with other uses included.

In May of 1999, Heritage filed a subdivision plan with the Township which proposed a residential development of the same property for 66 multi-family dwelling units as an alternate plan to the Farmer's Market project.

Heritage informed the Township that it had determined that the property was not feasible for the Farmer's Market project (the first proposal submitted). Heritage felt that the buildings were structurally unsound and could not be reasonably renovated as Heritage had initially hoped. Independently, the Township had its Building Inspector visit the property; and his inspections confirmed the Heritage position. Additionally the Hilltown Township Building Inspector determined that the buildings were a safety hazard and not safe to the public. As a result of these two consistent opinions, the Township issued a Notice of Condemnation of the property buildings. Heritage was directed to have the buildings removed under the time frame of the Township Building Code; or the Township would have the buildings demolished.

Heritage subsequently filed an Appeal to the Bucks County of the Township's Notice of Condemnation and Demolition. Township and Heritage Building Group have now reached an agreement regarding the use of the C. D. Moyer property; and the agreement includes the following:

First, Heritage has agreed to demolish the buildings as quickly as possible and to bring the property into safety compliance with the Building and Property Maintenance Code of Hilltown Township.

Second, the Township and Heritage have reached an agreement on the Appeal which permits the use of the property as an office campus and a day care center. The office uses that are allowed for the property include medical offices, general offices, retail stores, banks, restaurants, municipal use and a day care center. Heritage has agreed to these limited zoning uses; and has further agreed to comply with Hilltown Township limitations contained within the Township Zoning Ordinance and within the Heritage Agreement, and especially where the Township's requirements are specific in nature.

The total building footprint of all buildings proposed with the exception of the day care center will not exceed the Zoning Hearing Board's determination; and the total building coverage of the proposed day care center shall not exceed 15,000 square feet. As to a retail store use E1, no individual store will exceed 4,000 square feet unless approved by the Board of Supervisors.

Third, upon approval of the written Stipulation of Agreement between the parties and by the Bucks County Court of Common Pleas of Bucks County, Heritage has agreed that upon receipt of preliminary land development approval of the contemplated office park campus that it will withdraw its preliminary plans regarding the proposed 66 multi-family units from the site so that only one active set of development plans for this property will be pursued.

Hilltown Township is pleased with this negotiated agreement; and feels that the best interests of the community are being served. The agreement provides for the elimination of the proposed 66 units of multi-family houses on the property. It will provide for needed available office space and retail use; and also provide for a day care center which is essential to our working families. Lastly, it provides for the removal of an existing safety hazard and eyesore.

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