

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS  
REGULARLY SCHEDULED MEETING  
Monday, March 22, 1999  
7:30PM**

The regularly scheduled meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:30PM and opened with the Pledge of Allegiance.

Also present were: Kenneth B. Bennington, Vice-Chairman  
Charles D. Grasse, Supervisor  
Bruce G. Horrocks, Township Manager  
C. Robert Wynn, Township Engineer  
Francis X. Grabowski, Township Solicitor  
George C. Egly, Jr., Chief of Police  
Lynda Seimes, Township Secretary

Chairman Bennett congratulated Chief George C. Egly, Jr. at his last formal meeting of the Board of Supervisors. Chief Egly retires on March 31, 1999. In recognition of Chief Egly's 25 years of service, the audience gave him a round of applause.

A. PUBLIC COMMENT ON AGENDA ITEMS ONLY: None.

B. APPROVAL OF MINUTES – Action on the minutes of the March 8, 1999 Worksession meeting – Motion was made by Supervisor Grasse, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the March 8, 1999 worksession meeting, as written. There was no public comment.

Supervisor Bennington asked the status of the bollards at the car wash on Rt. 113, which he questioned at a previous meeting. Mr. Wynn replied correspondence was received from Montgomery Realty Group indicating they will be installing the flexible reflective bollards at the Starwash facility, however because the installation requires a bonding agent that is weather sensitive, the installation date was postponed until favorable weather conditions prevail. The applicant hopes to have the bollards installed by the end of March.

Supervisor Bennington asked the status of the water problem on Hilltown Pike. Mr. Horrocks explained the individual who originally voiced that concern has been contacted by PennDot. Chief Egly noted Mr. Carl Tosi of PennDot forwarded correspondence to Mr. Tom Moore, advising PennDot investigated the area in question. It was determined that the flow was being restricted by a driveway located at 214B Hilltown Pike. PennDot has taken steps to alleviate the problem, and worked with Hilltown Police to determine the property owner's name and address. A letter will be sent to the offending property owner notifying them of the problem. PennDot will follow-up on the situation to insure that it has been corrected by the property owner within five days of receipt of the letter.

Supervisor Bennington asked Mr. Horrocks to phone Mr. Tosi tomorrow to insure that the problem has been rectified.

C. APPROVAL OF CURRENT BILLING: Chairman Bennett presented the Bills List dated March 23, 1999, with General Fund payments in the amount of \$46,767.07 and State Highway Aid payments in the amount of \$8,885.87; for a grand total of all payments in the amount of \$55,652.94.

Motion was made by Supervisor Grasse, seconded by Supervisor Bemington, and carried unanimously to approve the Bills List dated March 23, 1999, as written. There was no public comment.

D. CONFIRMED APPOINTMENTS:

1. Chairman Bennett took this opportunity to welcome the new Police Chief – Kerry L. Trauger, who will be taking over the duties of Hilltown Township Police Chief on April 1, 1999. Lt. Trauger, along with his wife Kathy, approached the dais where Lt. Trauger was presented with his badge as Chief of Police.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to appoint Kerry L. Trauger as the next Police Chief of Hilltown Township, effective April 1, 1999. There was no public comment.

2. Chairman Bennett announced the Board of Supervisors met in Executive Session prior to this meeting with the Township Engineer and Township Solicitor in order to discuss legal matters.

E. MANAGER'S REPORT – Mr. Bruce G. Horrocks, Township Manager –

1. Mr. Horrocks reminded those present that the Board of Supervisors worksession meeting scheduled for April 12, 1999 has been cancelled. The next meeting of the Hilltown Township Board of Supervisors will be held on Monday, April 26, 1999 at 7:30PM.

F. CORRESPONDENCE: None.

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

1. Solicitor Grabowski advised the settlement and closing for the purchase of the Seidel property located at the corner of Fairhill Road and Rt. 152 will be held at 10:00AM tomorrow morning. This is the first land acquisition under the open space

program. The reason the settlement has been delayed for so long is because there are five separate estates involved as sellers of the property.

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

1. Hilltown Crossings (Sketch) – This plan was before the Planning Commission as a sketch plan for the past several meetings. At the Planning Commission meeting held on March 15, 1999, the applicant was to present the plan to the Board of Supervisors for direction regarding the cluster layout and sanitary sewage disposal facilities.

Mr. Robert Gundlach, attorney for the applicant, was in attendance to present the plan, along with Mr. John DiPasquale, vice-president of the Elliott Building Group, Mr. Mark Bahnick from Van Cleef Engineering, and Mr. John Kennedy, land planner. Mr. Gundlach explained this 52-acre site is located on Telegraph Road, between W. Creamery Road and Rt. 113, and is currently owned by the Mennonite Foundation. Elliott Building Group is under agreement of sale to purchase the property. The property abuts the Beverly Road subdivision, which is zoned CR-2 and consists of single family dwellings. The 52 acre site is zoned Rural Residential and is indicated in Hilltown Township's Comprehensive Plan as being within the future development district. Mr. Kennedy has carefully reviewed the Cluster Ordinance for development in the RR Zoning District and has taken great care to design a plan in strict compliance with the Ordinances of the Township. For this proposal, the SF Conservation Option 2 has been selected, allowing for lots as small as 7,500 sq. feet, with a requirement for 60% open space. Mr. Kennedy began design of this project in late 1998, in conjunction with the engineers of Van Cleef, and submitted a sketch plan to the Planning Commission in January, 1999. That plan contemplated 55 lots approximately 10,000 sq. feet in area, which is 2,500 sq. feet larger than the minimum required in the Ordinance. At the January meeting, the applicant received a number of comments from the Planning Commission concerning the plan. In summary, those comments dealt with a design featuring a cul-de-sac street, which the Planning Commission was not in favor of, comments concerning the increased traffic that would be generated by this proposal, and also issues relating to sewer service. With lots of 7,500 sq. feet, Mr. Gundlach felt that on-site sewer systems are not feasible. The revised plan reduces the number of dwellings from 55 to 51, eliminates the cul-de-sac street, and addresses two potential sewer options. Since the last meeting, the developer received correspondence from Ms. Ann Hutchinson of the Natural Lands Trust concerning additional recommendations she would like to see incorporated into the site plan, most of which can be complied with.

Mr. Kennedy presented the revised sketch plan, which addresses the comments made by the Planning Commission in January. The new sketch plan proposes 51 lots, 12,000 sq. feet in area, with 95-ft. frontage per lot. The cul-de-sac street was removed, and a road

has been proposed through the existing woodlands from Beverly Road to Telegraph Road. The revised plan slightly exceeds the open space requirements with 31.5 acres of open space proposed. All of the lots back-up to open space. There are also numerous areas where there is open space access and breaks so it would be easily accessible. Admittedly, Mr. Kennedy noted there are a few lots that do back up to Telegraph Road, which is something, the developer was trying to avoid. Mr. Kennedy advised most of Ms. Hutchinson's comments, in terms of the first sketch plan, were fairly favorable and many of Ms. Hutchinson's comments in terms of the revised sketch plan are also favorable. It is Mr. Kennedy's understanding that Ms. Hutchinson's primary concerns deal with the woodland disturbance, as well as some suggestions for buffering of the site. It was Ms. Hutchinson's suggestion that the road alignment be curved around the woodlands to avoid woodland disturbance. The one area Mr. Kennedy disagrees with concerning the sketch layout submitted by Natural Lands Trust is that they have made a direct connection between Beverly Road and Telegraph Road. Mr. Kennedy feels that some type of intersection would give both the existing Beverly Road residents and the new residents a bit more privacy. The Elliott Building Group would prefer to keep the lot sizes larger at 12,000-sq. feet, even if it means that the number of lots will be reduced.

If the developer had not utilized the Cluster Ordinance and had used 50,000-sq. ft. lots with no open space, Supervisor Bennington asked how many dwellings could be constructed on the site. Mr. Wynn believes that 38 dwellings could be proposed, based upon the density of .75. In that scenario, Mr. Kennedy reminded the Board that the entire property would be completely utilized, with no open space.

Mr. Gundlach advised the first sketch plan contemplated connection to the public sewer system at Beverly Road. At that meeting, a member of the Planning Commission commented that he was opposed to connection to public sewer and would prefer the use of package treatment plants. Mr. Gundlach discussed this suggestion with the Hilltown Authority, who is against fostering a package treatment plant concept throughout the Township with different developments all having their own treatment plants. The Authority was in favor of a uniform public sewer system to service the Township, to be operated and managed by the Hilltown Authority, as opposed to multiple community systems throughout the Township. With those suggestions in mind, Elliott Building Group engaged Mr. Mark Bahnick who has experience with the design of sewer treatment plants, package treatment plants, and the extension of public sewer lines. Supervisor Bennington commented there is also the option of on-site sewer systems, which Mr. Gundlach neglected to mention. Mr. Gundlach noted it is Mr. Bahnick's professional opinion that with lots as small as 7,500 to 10,000-sq. feet, on-site systems are not feasible. Supervisor Bennington stated on-site systems are still an option in his opinion.

Supervisor Grasse recused himself from discussion of all issues pertaining to this plan and reverted back to his original statement concerning this development dated February 22, 1999.

Mr. Bahnick presented two options for sewage treatment. The first option provides for a package treatment plant, which would treat approximately 15,000 gallons of sewage per day, roughly equivalent to an average of ten gallons per minute. This is approximately the same as two garden hoses. The plant would be designed to provide effluent in accordance with criteria established by DEP for this site based upon the amount of sewage flow and the criteria of the pond to receive the effluent from the plant and the stream. Based on those conditions, Mr. Bahnick anticipates that the plant would be designed to the highest level of treatment, that being tertiary, and would in fact produce effluent that was of a higher quality than the plant that currently serves the Township. The plant would be designed to discharge into the pond, which is currently in place on the site by using this discharge method. The applicant would provide for a location for a larger amount of water from the plant to re-enter the groundwater table and provide for recharge, as opposed to overland flow. The plant would be fenced and would be designed with fiberglass tanks installed below the ground surface. Vent pipes would be provided out of the top of each of the tanks. The plant would be operated daily by a licensed treatment plant operator to be retained by the owner of the plant. At this time, the applicant has not discussed who the owner would be. Options open for ownership include an association of homeowners from this development, privately owned, or owned by the Township or the Authority. Mr. Bahnick advised the process by which this plant would be constructed would be to first have the Township sewage plan provide for the plant. Once the planning aspect is dealt with, DEP would establish the discharge criteria, and the plant would be designed based upon that criteria. The developer would then obtain the approval for permits for the facility.

The second option is the construction of a gravity collection system that would connect into the existing manhole located adjacent to this property. Due to the ground elevation, Mr. Bahnick noted a gravity collection system and a sewage pumping station would be constructed next to the pond. That gravity system would collect into the pumping station, and the waste would be pumped up through a force main, and then tie into the existing manhole. The applicant has been asked to consider the concern expressed because of the condition of the existing on-site system servicing the nearby Seylar Elementary School, and also because of a plan to expand that school, which will impose upon the on-site system. The School District would like to provide a sewage pumping station and a force main that would extend from the school to Telegraph Road, across the applicant's property to tie into the existing manhole. Mr. Bahnick has accommodated the school's needs as part of this plan by providing for a connection point within their gravity system that will extend down to the sewage pumping station. This would provide the school with the means to cross the developer's property without purchasing an easement and

would also reduce the cost of a force main. Again, Supervisor Bennington noted that no option have been considered for on-site systems. Mr. Bahnick stated that with this particular lot configuration, it is his opinion that it is not practical to install sand mounds on each one of those lots. Before making a decision on sewer service for this proposal, Supervisor Bennington wished to review documentation for on-site evaluations. Mr. Bahnick agreed to comply. Personally, Chairman Bennett does not favor individual package treatment plants and believes he is echoing the sentiments of the Hilltown Authority. Chairman Bennett's main concern with package treatment plants is that once a development is completed, the future maintenance of the plant becomes a problem. Discussion took place. Mr. Gundlach advised a plant could be designed to handle 100,000 gallons, which would include this property as well as every property within the district. Mr. Gundlach is aware that the Township is in the process of revising the Act 537 Plan and the sewer options in the Township. Mr. Gundlach asked the Supervisors to consider this issue along with the Act 537 Plan amendments.

Mr. Gundlach was extremely disappointed to learn that at the end of the last Planning Commission meeting, a motion was made to recommend that the Cluster Ordinance, upon which this proposal is based, be repealed. Mr. Gundlach hopes that if the Supervisors intend to pursue the Planning Commission's recommendation to repeal the Cluster Ordinance, that they would allow an exception to this property.

2. Ayerle Subdivision – This two-lot subdivision is located on Schultz Road/Keystone Drive and was unanimously recommended for final plan approval by the Planning Commission, subject to the following:

- Site capacity calculations on the plan identify the maximum permitted density as 0.5 dwelling units per acre. Pursuant to Table 502 of the Zoning Ordinance as amended by Ordinance #98-13, when a "Single Family Conservation Option" is not chosen and the base site area exceeds 5 acres, the maximum density is 0.2 dwelling units per acre with a minimum open space requirement of 10%. Plan must be revised accordingly. Additionally, subscript (5) of Table 502 states, "Base site area must be less than 5 acres" to utilize the 0.5 DU/AC density with 0% open space. Subscript (6) for 0.2 DU/AC with 10% open space states, "Lots of 5 or more acres, base site area, single or combined, proposed for subdivision, shall use these bulk and area standards, or one of the other use options." Plan must be revised to provide for the 10% open space requirement of Table 502.
- The Planning Commission approved a motion by a 6-1 vote to permit the subdivision to be treated as a minor subdivision. The waiver is specifically from Section 304.2, which states that if there is an additional

subdivision permitted within five years of the approval of a minor subdivision, the new subdivision will be treated as a major subdivision. Prior subdivision of this site occurred in 19997.

- The Planning Commission unanimously recommended waiver of street improvements and stormwater management calculations.
- Proposed property monumentation must be installed and certified in writing by the responsible surveyor prior to plan recordation.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to grant final plan approval to the Ayerle Subdivision, pending completion of all outstanding items as noted above. There was no public comment.

3. Burger King Land Development Waiver Request – The Planning Commission unanimously recommended waiver of submission of a land development plan for construction of a 1,287 feet indoor playground addition to the Burger King restaurant located on Rt. 113. Part of the playground area will be replaced as landscaped area. The stormwater run-off from the site discharges into a stormwater management basin located in the Souderton Square Shopping Center. The Planning Commission noted that the land development waiver does not address the possible need for variance from the Zoning Ordinance relative to Section 406.E6.5.(1) regarding parking for the fast food restaurant. This site received a variance when the Burger King was originally built. Further, the proposed addition will require additional parking based upon Zoning Ordinance calculations. The applicant should review the parking requirements with the Zoning Officer, and if necessary, seek variance approval from the Zoning Hearing Board.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to waive land development requirements for the Burger King Restaurant, and to direct the applicant to meet with the Zoning Officer to review parking requirements or to appear before the Zoning Hearing Board for a variance with regard to parking requirements. There was no public comment.

4. Callowhill Road Subdivision – The applicant for the Callowhill Road Subdivision located on Callowhill Road immediately north of South Perkasio Road presented a sketch plan to the Planning Commission for a cluster subdivision for the site. The cluster subdivision increases the number of lots from 5 lots to 6 lots, shortens the cul-de-sac street, and reduces the amount of impervious surface. Additionally, the cluster sketch plan proposes construction of a detention basin along Callowhill Road with discharge to a new storm sewer pipe along Callowhill Road and across South Perkasio Road. The Planning Commission indicated that the proposed cluster subdivision appeared more desirable than the submitted five lot conventional subdivision. The

applicant indicated that they would proceed with a preliminary plan for the cluster subdivision. In anticipation of a new cluster subdivision submission for the site, and in consideration of the deadline in the review period (expires on April 17, 1999), the Planning Commission unanimously recommended denial of the current preliminary Callowhill Road Subdivision Plan due to non-compliance with Zoning Ordinance and Subdivision requirements as itemized within the engineering review dated November 9, 1998, and the Bucks County Planning Commission review dated October 26, 1998.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to deny the Callowhill Road Subdivision preliminary plan due to non-compliance with the Zoning Ordinance and Subdivision/Land Development Ordinance requirements, as itemized in Mr. Wynn's engineering review dated November 9, 1998, and the Bucks County Planning Commission review dated October 26, 1998. There was no public comment.

5. Longleaf Estates II – Mr. Wynn noted the Planning Commission at their last meeting recommended this plan for approval. The applicant has granted an extension for review until April 30, 1999.

6. Pileggi Land Development – The preliminary plan for this site located on Rt. 313 was unanimously recommended for denial unless the applicant grants an extension. Correspondence has been forwarded to Mr. Pileggi's attorney advising him of the recommendation of the Planning Commission and requesting that he provide the written extension. The applicant has granted an extension for review of the plan until July 31, 1999, and is also making application to the Zoning Hearing Board for a variance for an on-lot well in an area that requires public water connection.

I. ENGINEERING – Mr. C. Robert Wynn, Township Engineer –

1. Hipple Subdivision – The Development Agreement for this subdivision requires completion of right-of-way grading, swale, and landscaping improvements along the frontage of this subdivision at Mill Road and Green Street to be completed by March 21, 1999. The applicant requested an extension of six months to permit this work to be accomplished during better weather conditions.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to accept the six-month extension of the Hipple Subdivision for completion of right-of-way grading, swale, and landscaping improvements along the frontage of the subdivision at Mill Road and Green Street. There was no public comment.

2. Keystone Estates – Mr. Buzby, Director of Public Works, requested that Mr. Wynn pursue a donation in lieu of overlay paving of Keystone Road along the



frontage of this subdivision so that he can coordinate this work with the spring paving project. A donation of \$6,000.00 has been offered. The estimated cost of overlay for this section of road with 2" ID-2 Wearing Course is \$4,800.00.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to accept the \$6,000.00 donation made by the developer of Keystone Estates to be used in lieu of overlay paving of Keystone Road along the frontage of this subdivision. There was no public comment.

Correspondence was received from the developer of Keystone Estates requesting that the Township also pave new interior roadways within the development, offering a donation of \$6,000.00 for this project. Since this new roadway is located on private property, Mr. Wynn recommended denial of this request due to liability.

Motion was made by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously to deny the donation of \$6,000.00 from the developer of Keystone Estates to pave the interior roadway within the development, due to liability. There was no public comment.

**\*8:30PM - Chairman Bennett called a ten minute recess at 8:30PM. The March 22, 1999 Hilltown Township Board of Supervisors meeting was reconvened at 8:40PM.**

J. MYLARS FOR SIGNATURE: Kunkin Lot Line Consolidation

K. CLUSTER REVIEW: Mr. Horrocks introduced Ms. Ann Hutchinson of Natural Lands Trust who made a 15 minute slide presentation concerning Growing Greener, showing different types of cluster developments presently in use in other areas of Pennsylvania.

Ms. Hutchinson explained that the Natural Lands Trust is a regional land trust formed in the 1950's by a man named Austin Jenkins. In the late 1950's Mr. Jenkins and his friends, who were avid bird watchers, began realizing that many of the lands in this region where they went to watch birds were rapidly being developed. The Natural Lands Trust was first known as the Philadelphia Conservationists, a group of friends who raised funds in order to preserve those special places where they viewed wildlife. Their first acquisition was the Tinicum Marsh near the Philadelphia Airport, which is soon to be dedicated as the Heinz Wildlife Refuge. Since 1961, the Natural Lands Trust acquired 13,000 acres in this region to be used for preserves, and also holds conservation easements on another 11,000 acres. By the mid 1980's, the staff and board members began to realize that only a very small percentage of land in any one community will be preserved through acquisition or the generosity of land owners. At that time, the Trust began to carefully look at how to preserve land on a municipal level. In 1991, the Trust

hired Mr. Randall Arendt, who is a nationally known author and lecturer. Most of the techniques presented this evening were either created by Mr. Arendt or are a compilation of techniques that the Natural Lands Trust believes are the best conservation practices. Ms. Hutchinson felt it was important to understand that this is not a technique that results in no growth, it simply results in better growth.

L. PLANNING COMMISSION COMMENTS:

1. Mr. Jack Fox, on behalf of the Hilltown Planning Commission, stated that what Ms. Hutchinson presented this evening is ideal. However, he noted Hilltown's problem is not like many of these other communities that are open to development but had no open space or open space provisions. Hilltown Township has that. In the CR-1 Zoning District with 25 or more homes, there is a requirement for 50% open space. As an example, the sketch proposal made by Heritage Building Group for 351 dwellings would only have allowed approximately 211 dwelling units under the former Ordinance. In the CR-2 Zoning District, Mr. Fox advised the former Ordinance permitted cluster housing, such as the Hilldale Development with 28 dwellings on  $\frac{3}{4}$  acre parcels with public water and sewer, instead of 50,000 sq. ft. lots. With the new Cluster Ordinance, Mr. Fox commented more dwellings will be permitted on smaller lot sizes. Mr. Fox felt the Township is being too kind to developers. In the Rural Residential Zoning District, the Township has been able to discourage development in the past, however in Mr. Fox's opinion, the new Ordinance is opening the Township to uncontrolled development. When the new Cluster Ordinance was presented to the Planning Commission for review, Mr. Fox thought the requirements was for the development district only, not the Rural Residential Zoning District.

2. Solicitor Grabowski stated that the Cluster Ordinance is a planning tool. Zoning in Hilltown Township began in 1959 with certain restrictions with regard to health, safety and welfare of the community. Zoning is a regulatory concept, it is not a mechanism to keep out types of land uses which are found undesirable. It is to regulate where and what types of land uses are to be conducted in any particular municipality. The legitimacy of zoning regulations in Hilltown Township is governed by the State, the Federal government and other higher powers. The Municipalities Planning Code regulates what Townships and Boroughs can and can not do in terms of zoning. On the Federal side, there are also laws that indirectly regulate how zoning laws can govern and regulate properties and uses of those properties. Solicitor Grabowski advised that the State courts have ruled that anything more than two-acre zoning is unreasonable and confiscatory, and have denied such proposals. In 1965, the Pennsylvania Supreme Court rejected a Township Ordinance requiring a minimum of four-acre zoning, and three-acre zoning was denied as early as 1970. Further, in many instances, the Supreme Court has ruled that unless there is some extraordinary justification to prove that two-acre zoning is feasible, it is not permitted.

As to curative amendments, Solicitor Grabowski advised the Municipalities Planning Code, as amended several years ago, gave developers a great deal of leverage to be used against municipalities. If they were of an opinion that a particular municipality did not provide for its fair share of a legitimate use or a housing use, they did not necessarily have to go through the lengthy period of appeals that is normally involved in a lawsuit. Developers were given the opportunity to file what is called a curative amendment. A curative amendment essentially says that the Township has not provided their fair share of what a developer is asking for. If the developer can prove that a Township has not provided for a fair share, they will win. The courts in Pennsylvania had upheld these rulings over the past 15 years in Bucks County. Everyone is aware of what has happened in Buckingham and Warwick Townships. Hilltown Township addressed this issue in which it made a determination that there were certain inadequacies in its existing Ordinances, and declared its own municipal curative amendment at that time. This allowed for a six-month moratorium where developers were not permitted to file their own private curative amendment. A series of Ordinances were reviewed and proposed at that time. As a result of that, four of the five proposed Ordinances were adopted – one of which was the new Cluster Ordinance.

Solicitor Grabowski explained the term “fair share.” The definition was determined by the Pennsylvania Supreme Court in a case in which they said there is a three-prong test, which must be addressed by both the developer and the municipality. The first is whether or not the area is a logical area for development, population and growth. If the answer to that is yes, the second question asks if the subject area is already highly developed. If the answer to that is no, the third question comes into affect as to whether or not the Zoning Ordinance has the practical effect of unlawfully excluding a proposed use. To make this clearer, Solicitor Grabowski paraphrased a 1994 case in which the Pennsylvania Commonwealth Court said that if the subject area is in the path of development, and the subject area is not already highly developed, than a Zoning Ordinance that works to exclude a legitimate land use will be struck down. The court would not allow a municipality to isolate itself or to ignore the housing needs of the areas surrounding it. Solicitor Grabowski commented development can not be stopped, however it can be regulated, which is the job of the Planning Commission and the Board of Supervisors.

Solicitor Grabowski stated that the procedure of a curative amendment is a filed document with the municipality. The Board of Supervisors, within a 60-day time frame, is required to begin holding hearings on the matter. The Supervisors essentially act as a judge to determine whether or not a Township Ordinance is unfair to that particular project. The developer will be armed with engineers, planners, traffic experts, water/sewer experts, and any other professionals they deem necessary. The Township, if it intends to defend its Ordinance and to oppose the developer, needs to have similar expertise. A series of hearings are held and ultimately, the municipality, if it feels it has done its job properly, will deny the application. With that denial, the applicant has the

opportunity and the right to file an appeal to the Bucks County Court of Common Pleas. The judge will review the transcripts of the prior hearings, and it will then be up to the judge's determination as to whether or not the Ordinance was reasonable. Once a decision is rendered, either side has the right to make an appeal of that decision to the Pennsylvania Commonwealth Court.

Mr. Fox believes what the Solicitor has said is true, however he believes it needs some clarification. Buckingham Township is a very restrictive municipality. There are requirements of lot sizes of a minimum of five acres and no mobile homes or townhouses are permitted. Hilltown's Ordinances are much less restrictive in comparison. Hilltown Township has followed the Zoning Ordinance and Comprehensive Plan requirements for 40 years, with only one curative amendment filed thirty years ago, which the developer lost.

3. Mr. John Kachline, member of the Planning Commission, is very much opposed to the density and lot size currently permitted in the Cluster Ordinance in the RR Zoning District. Mr. Kachline commented there are a great many inconsistencies in the Cluster Ordinance and he believes it should be repealed for use in the RR District.

4. Supervisor Bennington wished to clarify that approximately 66% of this Township is zoned Rural Residential. Of that 66%, 85% will never be developed with a residential cluster development because a developer can not run public water and sewer lines to that development in a cost effective manner. Mr. Wynn noted that a community treatment plant could be constructed anywhere in the Township. Therefore, Supervisor Bennington advised that cluster developments will be constructed mostly in the fringes of the Rural Residential Zoning District, which ultimately, according to the Comprehensive Plan, would be rezoned to high density housing in the future.

5. Mr. Ken Beer, Planning Commission member, noted the present Cluster Ordinance permits a centralized water system, not a public water system. Mr. Beer believes that at least 60% of the land in Hilltown Township does not perk. If Hilltown Township allows cluster development in RR, a developer will only have to develop a small piece of land with a centralized water system and a package treatment land, which would certainly be cost effective. Mr. Beer is concerned that the Cluster Ordinance requirements will open the RR District to major development. Mr. Wynn commented a central community water system and treatment plant, or public water and sewer is permitted under the Cluster Ordinance.

6. Mr. Jim Coyne, Vice-Chairman of the Planning Commission, stated the reason the Planning Commission made the recommendation to the Supervisors to adopt the Cluster Ordinance was because they feared of cluster in the RR. Mr. Coyne agreed

that development can not be prevented, however he feels this is the one way the Township can regulate it.

7. Chairman Bennett commended the Planning Commission and noted that 98% of the time, the Supervisors adopts their recommendations, as they did this time. The Cluster Ordinance was also recommended for approval by the Bucks County Planning Commission. In hindsight, it appears the Planning Commission has reservations about the Cluster Ordinance and they have certainly brought some valid points to the Supervisors attention.

Chairman Bennett explained there is also an Open Space Committee in Hilltown, which was formed as a result of the County funding that was allocated to 54 Bucks County municipalities, based on population and area. Hilltown's share of those funds was \$560,000.00, if we matched that amount with 25% or \$140,000.00, which has been done with no tax increases. The Open Space Committee has diligently worked for over 1-½ years to select sites to preserve as permanent open space.

8. Mr. Mike Beatrice, member of the Planning Commission, echoed his fellow Commission member's sentiments. Mr. Beatrice is an open space proponent, however he is learning that different people have different definitions of open space. Mr. Beatrice feels open space is open fields or wooded areas, while others think of ball parks and football fields. Over the past few months, Mr. Beatrice has seen developments being proposed where the open space includes land that is encircled by houses and that land then being deeded back to the property owners who surround it. This is being classified as open space, yet Mr. Beatrice feels that is actually a back yard. If the goal is to eventually connect all the open space areas, Mr. Beatrice does not feel that goal will be met with deed restricted open space.

9. Mr. Fox advised the latest Open Space Ordinance passed in October, 1998 allows stables and farm buildings to be constructed on open space to be used commercially for horses, however livestock is not permitted. Ms. Hutchinson was not involved in the adoption of an Ordinance that changed allowable uses in the open space area. Ms. Hutchinson explained the Subdivision Land Development Ordinance contains design guidelines and uses for open space, however she is not familiar with the issue Mr. Fox raised. Discussion took place.

M. PUBLIC COMMENT:

1. Ms. Diane Parks of 1022 Keystone Drive commented Hilltown Township is part of a business. Just like Ms. Hutchinson said, the developer's product is housing, the Township's product is a place to live. Like other businesses, Hilltown has competition and there is a loyal population of customers in this municipality. According

to a 1996 Park and Recreation Survey, over 75% of the responders have lived here more than 5 years. Therefore, Ms. Parks does not feel that Hilltown is a "bedroom community" of transients, and we do regularly welcome new residents. The Comprehensive Plan states "Hilltown Township is rural in character, with gently rolling topography and numerous small stream valleys. Contributing to this rural character are the many operating farms found throughout the Township and the woodland plots of considerably varying sizes and shapes." If the residents of Hilltown are really the customers of this community, the other players include competition, prospects, partners and allies. The latter is where Ms. Parks feel the Township must draw the line. Ms. Parks reminded the Supervisors that developers are not our partners, and under some circumstances, they are not even our friends. They are business people and after all the potential for profit here in Hilltown is exhausted, developers will take the money and run. Ms. Parks commented the residents of this Township are the customers, the owners, and the voters. She does not believe the Township owes developers a profit, rather she believes the Township owes both the present and future residents of this community a place to live that they can respect, value and support within the spirit of their plans and their budget. Ms. Parks urged the Supervisors to support the plan according to its intention, with laws that are constantly audited and constantly improved. If there is a price to pay for living in a place that is treasured and valued, Ms. Parks suggested the Township see what that price is and decide what it is worth to the residents. Ms. Parks asked the Board to take this opportunity to review and correct the Cluster Zoning Ordinance by insuring that the open space calculations, the water and sewer requirements, the definitions of open space and its protection into perpetuity, are synchronized. In the mean time, Ms. Parks suggested that the Supervisors do not compound any more damage by allowing a lot more sprawl and by imposing its own priorities in Hilltown by cooperating with the other 1,456 Second Class Townships and almost 2,000 Planning Commissions in the state, where over 42 of the 67 counties are rural. Ms. Parks stated that Hilltown Township should not cave in to threats by developers who will pillage the community for the short term.

2. Mr. John Gillespie of 310 Moyer Road felt that it was time for the Supervisors to be proactive instead of reactive. Mr. Gillespie is very concerned about the huge wave of development hitting Hilltown Township, noting that a new school and more police and fire protection will be required. Mr. Gillespie believes developers should be held accountable for the additional services required when they propose large subdivisions.

3. Mrs. Betty Snyder of 1110 Mill Road is primarily concerned with the impact of Cluster zoning on schools and Rural Residential Zoning Districts. Although Cluster zoning reduces the actual acreage going into housing by 50% or 60%, Mrs. Snyder noted there is no resultant reduction in dwelling units. In fact, Cluster zoning enhances the number of dwelling units above what formerly existed in CR-1, CR-2, and RR Zoning. It appears to Mrs. Snyder that Cluster zoning compounds the pressure on

the already bulging schools. Further, Mrs. Snyder believes there ought to be a school on-line and manned when new school children start arriving by the hundreds. It is Mrs. Snyder's fear that new development could dump 500 to 700 students on the school district, and the school district can not put a new school on line in less than four or five years. Until there are sufficient schools and teachers prepared to handle the excess students, Mrs. Snyder does not believe a developer should be permitted to move forward with a development. Perhaps there should be a linkage between the pacing of developments and the schools. Development produces hidden costs on society, its institutions and infrastructure. Mrs. Snyder also feels developers should have to commission societal impact studies to determine its impact on the community prior to development. She believes developers need to bear a meaningful part of the burden of those costs since they are the landowner and principal income recipient. Mrs. Snyder feels the developer should pay taxes or fees proportionate to the benefit they derive.

Mrs. Snyder's final concern is that Cluster zoning in the RR Zoning District is dangerous. The twin evils of aquifer depletion and groundwater contamination from higher density development are too frightening to risk and too real to be permitted. Mrs. Snyder urged the Supervisors to remove Cluster zoning from the Rural Residential Zoning Districts. Mrs. Snyder suggested that the maximum density permitted at present in Cluster zoning in the CR-1, CR-2, and Rural Residential Zoning District should be reduced by at least 30%. Mrs. Snyder also suggested that linkage pacing of housing developments with school building plans and other infrastructure upgrades should be connected. Mrs. Snyder believes societal impact studies should be commissioned by developers and substantially higher fees and taxes for developers and management companies to defray the costs of their impacts on schools, police, fire, ambulance, and open space maintenance should be considered.

4. Mrs. Janice Stemler of Beverly Road presented copies of the former Cluster Ordinance and the Cluster Ordinance that was adopted in October of 1998, showing the formula for calculating the amount of dwellings on a parcel and showing Table 502 which provides the numbers to be utilized in the formula. Mrs. Stemler has been told repeatedly that the new Cluster Ordinance does not allow any more dwellings on a piece of property than the former Ordinance allowed. In the Rural Residential Zoning District on a 52-acre parcel, Mrs. Stemler noted that 38 single-family dwellings (not clustered) would be permitted.

Under the old Ordinance, the base site area is determined by subtracting out the resource restrictions. The total open space area (55%) is then subtracted from the base site area. The required open space figure is then subtracted from the base site area, which leaves the total acreage of net buildable site. Now the maximum density number from Table 502 is multiplied by the net buildable area, which determines the number of dwellings permitted on the site. With the changes adopted in the new Ordinance, Mrs. Stemler

advised there could be approximately twice the number of dwellings that would have been permitted under the former Ordinance.

5. Ms. Denise Hermany, a member of the Open Space Committee, noted that when Ms. Hutchinson gave her presentation in October of 1998, she asked why the Township would consider passing an Ordinance that would allow more dwellings to be constructed in some instances. At the time, Ms. Hutchinson advised that in some cases, more dwellings could be constructed on a lot, however the comment was made that most builders really did not want to take advantage of the smaller sites. Unfortunately, the proposals made by the Elliott Group and Heritage Building Group are not following those statistics. Ms. Hermany is concerned that if the Supervisors allow the extension of public sewer for the Elliott Group, there will be more and more requests for public sewer in the Rural Residential Zoning District. As a member of the Open Space Committee, Ms. Hermany supports the Planning Commission's recommendation to remove Cluster zoning from the Rural Residential Zoning District.

6. Mr. Henry Rosenberger of 1239 Rt. 113, a member of the Open Space Committee, also supports the Planning Commission's recommendation to rescind the Cluster development requirements in the Rural Residential Zoning District. Mr. Rosenberger is concerned that the Township is considering development southeast of Rt. 113, when the master plan does not anticipate development of that area until after the year 2005. Another concern Mr. Rosenberger has is stormwater run-off. Mr. Rosenberger's home is located at the bottom of a hill, below approximately 3,000 acres. During the last six years, Mr. Rosenberger has spent close to \$200,000.00 in an attempt to manage the stormwater and stream rehabilitation. Mr. Rosenberger also has concerns about water.

Mr. Rosenberger asked the Supervisors to consider the adoption of a Growth Ordinance, so that growth could be managed in concert with the school district. Further, Mr. Rosenberger feels the Township should consider the adoption of an Agricultural Zone. From Telegraph Road to Rt. 313, there is a very unique area with at least six or seven agricultural enterprises, including his own and Mr. Beer's properties. This Agricultural Zone could be used to continue to maintain a very rural character in Hilltown Township.

7. Ms. Mary Schiavone of 822 Township Line Road advised there is a very real concern about Cluster zoning in the Rural Residential Zoning District with regard to private sewer systems. The developers propose that the treated sewage will flow into a pond contained on the property since there is no stream into which it can be discharged. The developer stated that discharging into the pond would allow the water to seep into the ground and help replenish groundwater resources. In theory, this sounds great, however Ms. Schiavone noted an average household uses 640 gallons of water per day. Ms. Schiavone calculated that 640 gallons per dwelling multiplied by 51 dwellings equals



32,000 gallons of water per day, not 15,000 gallons as the developer stated earlier. Therefore, the majority of the water will not seep into the ground, especially at the rate it will be discharged into the pond. During the rainy season, the pond could overflow and Ms. Schiavone wondered where that overflow would go – to the adjoining property or back onto the development itself. This is a major concern, since most parcels of land are not located near streams large enough to allow discharge from sewer treatment plants. Ms. Schiavone urged the Supervisors to rethink the Cluster Ordinance and to revise the Zoning Ordinance to disallow Cluster development in the RR Zoning District.

Further, Ms. Schiavone requested that the Hilltown Township Water and Sewer Authority post their minutes for public review.

8. Ms. Valerie Blaxall of Rickert Road wished to address the issue of open space as it pertains to the Cluster Ordinance. To try to encourage developers to leave some land as open space can be a very good thing, which is the concept the residents endorsed in October, 1998 when the Cluster Ordinance was passed. However, upon closer review of the Cluster Ordinance, it became clear to Ms. Blaxall that the densities allowed are way too high, and therefore must be changed. According to the new Cluster Ordinance requirements, Ms. Blaxall advised developers are able to double the Township's troubles as they double the school population, water consumption, sewage production, pollution, traffic congestion, and overtax our fire, ambulance, and police services. No matter how pleasingly you arrange a large number of houses together in a cluster with a bit of open space dotted throughout, allowing such heavy development, especially in the Rural Residential area, is a huge mistake. Also, by allowing such rapid development to occur in the CR-1 and CR-2 Districts, the Township will use up all the land meant to be reserved in the long-range plan. Ms. Blaxall reminded the Board that there is only a finite amount of water to be tapped, whether the houses are close together or far apart.

Ms. Blaxall stated that defining open space – what it is and how it should be utilized, is a nightmare of semantics. One man's conception of open space may be a bike trail, walking path, or a golf course, while another man's conception is a wild field of grass. Deciding whether a homeowner's association, an individual homeowner, the Township or a land trust should accept responsibility for open space is difficult. Ms. Blaxall commented the ridiculously small land requirement of five acres which qualifies developers to use Cluster zoning, leaves open too small an area even in which to turn a tractor. Farmers in West Rockhill Township have asked that an Agricultural Security Area be created to protect them from all the complaints and nuisance lawsuits filed against them for the natural odors and noise that are a normal part of daily farming. Even with its own Agricultural Security Area, Hilltown is being swallowed up by developers at an alarming rate of speed. Ms. Blaxall noted that it is very clear that every developer who presents a plan to Hilltown Township will have a different interpretation of open

space and one which will benefit them to the fullest. If the definition of open space is left unclear, the developers will declare every lot "a difficult lot," and these supposed constraints will no doubt require that the most visually desirable and probably least profitable design will be thrown out in favor of the most closely packed design. Ms. Blaxall encouraged the Supervisors to tighten up the Ordinance to avoid loopholes so that Hilltown is telling developers what our vision of open space really is, and not the other way around. Ms. Blaxall also encouraged the Planning Commission and the Supervisors to consider creative planning designs that would benefit everyone in the Township, not just the developers. Ms. Blaxall also wished to explore the possibility of alternative farming concepts, outside traditional agricultural uses for lots when restraints are too daunting, such as fruit and nut trees, horse pastures, or allocated family garden plots, which would be in keeping with the rural character we all want to preserve in Hilltown Township. In conclusion, Ms. Blaxall believes the Cluster Ordinance in its present form must go. Allowing so many people in such small areas completely alters the character of the Rural Residential Zoning District as established in the Comprehensive Plan, and the densities allowed in CR-1 and CR-2 must also be lowered. A smaller density bonus in these areas to encourage open space would be acceptable. Until the formula is changed, Hilltown Township stands in grave danger of losing the battle to preserve the community with a rural atmosphere, open space and scenery – in short, a very desirable community in which to live.

9. Mrs. Jean Bolger of Rt. 152 commended all those residents who spoke before her on their knowledgeable and informed statements. Mrs. Bolger stated open space is wonderful, however the taxpayers of the community are footing the bill to have it maintained. Developers construct their subdivisions, then leave the area, with no thought to future maintenance.

Mr. Wynn advised there are only three Cluster developments in the RR Zoning District at present, which are now all zoned CR-2. One is the Foxview Hunt Subdivision located across the street from this building and includes their contribution of open space located around the municipal building and across Rt. 152, which is maintained by the Township. Another is the Schultz Subdivision, with privately owned farmland open space, and the third is the Hilldale Subdivision, containing a total of 28 lots, 25 lots that were clustered, and 3 lots located in Silverdale Borough, which contains privately owned open space. Mr. Wynn noted there is also open space located in performance subdivisions, such as Pleasant Meadows which contains open space that is owned and maintained by the Township; and the Country Roads development, which contains open space that is owned and maintained by a Homeowner's Association. Green Meadows contains a small amount of open space that is owned by a Homeowner's Association. The Sterling Knoll Development contains open space that is owned and maintained by the Township. Discussion took place.

10. Mr. Bill Rieser of 508 Telegraph Road has lived in his home for 32 years and believes the proposal made by the Elliott Group will impact his property more than any other. Mr. Rieser has always taken great pride in maintaining the rural area on Telegraph Road from Rt. 113 to W. Creamery Road, with only three dwellings. Mr. Rieser believes that having 28 dwellings on larger lots with no open space, rather than the proposal for 51 dwellings and scattered open space, would be more pleasing and acceptable to the residents. The issue of water is also of great concern to Mr. Rieser. He had to dig a second well 300-ft. deep, when his 100-ft. deep well ran dry a few years ago. It is Mr. Rieser's understanding that the Mennonite Foundation who owns the land and signed a development agreement with the Elliott Group, assumed that certain contingencies for development would be met. Mr. Rieser asked if the Supervisors have ever seen a copy of the agreement of sale or knows for a fact that the Mennonite Foundation has signed the agreement of sale with the Elliott Group. Chairman Bennett personally has not seen any documents or agreement of sale concerning the relationship between the Elliott Group and the Mennonite Foundation. If the agreement of sale was indeed executed, Mr. Rieser asked if the Elliott Group has been given carte blanche to get as much return on the land as possible, regardless of how much aggravation it causes in the community. Mr. Rieser also questioned how the Elliott Group became involved with the Mennonite Foundation, which is located in Goshen, Indiana. There were many people interested in purchasing this land from the Mennonite Foundation who could have held it without this type of development taking place. Mr. Rieser wondered if the annuity Supervisor Grasse referred to previously is actually a fixed amount and if his charitable donation to the Mennonite Foundation is also a fixed amount, or if the annuity would be affected by how much money the Elliott Group can make on this development.

Mr. John DiPasquale of the Elliott Group stated there is an executed agreement of sale with the Mennonite Foundation to purchase the property. As far as making that agreement a public document to the Board of Supervisors or to the general public, Mr. DiPasquale would have to discuss the matter with his legal counsel and with the Mennonite Foundation.

11. Mr. Donald Campbell of 710 Telegraph Road owns a neighboring property to the site in question. For reasons other than this development proposal, Mr. Campbell put his property up for sale last weekend. Unfortunately, there was an interested prospective buyer who heard about the proposed development and now is no longer interested in purchasing Mr. Campbell's property.

12. Mr. John Shane of 60 Country Road is concerned about the need for additional schools should this development, as well as the development proposed by Heritage Building Group, be constructed.

13. Mrs. Diana Urban of Hilltown Pike wondered how the number of dwellings proposed for both the Elliott Group and Heritage Building Group were arrived at, since the definition of net buildable site area does not agree with the site capacity calculations of Section 501. For that reason, Mrs. Urban requested that the Cluster Ordinance be reviewed and amended for both the RR Zoning District and the CR Zoning Districts.

14. Mr. Jay Long of 214 Township Line Road is very concerned about the impact of cluster housing on fire, police and ambulance services in Hilltown Township. Many volunteer fire companies are experiencing difficulties running their calls during daytime hours because of the lack of volunteers. Mr. Long noted most ambulance squads in both Bucks and Montgomery Counties now have paid personnel, and the bill is footed by the taxpayers. Mr. Long fears that fire companies will eventually be forced to do the same thing. Unfortunately, the days of the all-volunteer squads are gone. With the Township population increasing, Mr. Long noted there will certainly be a need for more fire and EMS equipment, or even a substation. There is no doubt in Mr. Long's mind that additional police personnel and equipment will be required as the Township's population increases and he wondered who will pay for the additional services. Mr. Long stated the only answer is to keep the developers in check and to keep the Cluster housing to a minimum, out of the RR Zoning District.

15. Mrs. Jackie Walker of Bypass Road pointed out that Bedminster Township's taxes have greatly increased through their willingness to keep the developers in check. Mrs. Walker feels it is a good idea and noted Bedminster is winning their court battles because the taxpayers of that community have agreed to a higher tax base to accomplish this. Mrs. Walker commented the residents of Hilltown Township will have to let their Supervisors know that they are willing to pay higher taxes to keep developers in check. Mrs. Walker encouraged the Supervisors to join the Township Coalition to fight developers in Harrisburg. Mrs. Walker also suggested that developers be required to attend Growing Greener workshops as presented by Ms. Hutchinson so that they can understand the premise of Cluster housing.

16. Mr. Jerry Stemler of Beverly Road has a concern, not with the developers, but rather with what Hilltown Township allows developers to do. Each developer he has heard speak this evening has been very clear in stating that they are proposing their plan to meet all Township specifications and Ordinances. Mr. Stemler feels it is Hilltown's own Ordinances that opens the door to development. Ms. Hutchinson's proposal allowed for options, which are successful, without forcing the density that is permitted in the new Cluster Ordinance. Mr. Stemler believes it is the density that the Ordinance permits that is Hilltown's biggest enemy. Mr. Stemler urged the Supervisors to repeal the Cluster Ordinance.

17. Mr. John DiPasquale of the Elliott Building Group wished to address comments made by Mrs. Jackie Walker. Mr. DiPasquale advised the president of the Elliott Building Group, Mr. Brad Elliott, is attending and hosting many seminars with the Natural Lands Trust on a concept called "Growing Greener in the State of Pennsylvania." Mr. DiPasquale feels this company has practiced good planning sense with all of their proposals, and noted the plan presented follows the Growing Greener concept, without taking full use of the density requirements. Mr. DiPasquale feels the Cluster Ordinance, as it exists today, is a sound Ordinance. Developers who have filed curative amendments in other municipalities are doing so because the Ordinances do not contain sound planning practices. Mr. DiPasquale quoted a section of Ms. Hutchinson's review letter of this plan, which states "The attached plan and suggestions offered herein would result in a development which meets the draft Subdivision Ordinance and long term, helps the Township accommodate growth while adding, at no public cost, to the interconnected open space system." If open space is the overall goal of the Township, Mr. DiPasquale commented the Elliott Group is trying to help achieve that. Mr. DiPasquale hopes that the Board of Supervisors and the Planning Commission will work diligently with the Elliott Group to determine the best possible plan for the Township and the surrounding residents.

18. Mr. Stefan Heilakka of Church Road commented Mr. DiPasquale assured those present that their way of life will not be changed by this development, however he strongly disagrees. The fact that it took Mr. Heilakka 45 minutes to travel from Lower State Road to the five points in Montgomeryville is a direct result of over-development and population density.

Last October, when Mr. Heilakka became involved in this whole process, it felt as though there was direction when the Township voted in the curative amendment. However, it now seems that he is on a ship with no direction. Mr. Heilakka encouraged the Supervisors to give careful consideration to amending or revising the Cluster Ordinance. It is not only a problem for the Planning Commission and the Board of Supervisors, it is the problem of the taxpayers of this community. Mr. Heilakka was angry that those present have lambasted the Planning Commissioners and the Supervisors this evening, because he feels all residents must share the responsibility to be informed and to maintain the vision for Hilltown Township.

19. Ms. Sandra Seifert of Beverly Road noted that Castle Valley Consultants is mentioned in the minutes of previous meetings for being involved with preparing the Cluster Ordinance. Ms. Seifert asked who Castle Valley Consultants are, what their credentials are, and why they are not present this evening to help residents understand this Ordinance. Ms. Hutchinson explained Castle Valley Consultants were hired to prepare the other section of the curative amendment dealing with the unified development district and accommodating golf course uses. Ms. Seifert does not understand how the

incorrect figures used in the formula to calculate density in the Cluster Ordinance came about. Supervisor Bennington stated that it was always been his intention not to increase the dwelling units on a property and he recalls asking that question several times during the public hearing in October. Supervisor Bennington was told that there would be no additional dwelling units permitted in the new Cluster Ordinance. The portion of the new Ordinance that bothered Supervisor Bennington was that the open space was taken out after the base site is calculated, which is different from what it previously was. Supervisor Bennington does not know why or how this happened, however he does not agree with the new Ordinance. Ms. Hutchinson commented this is not an interpretation issue nor is it an arithmetic issue. Ms. Hutchinson noted that if there is no public water and sewer extended to this particular site, then by her calculations, there could be 34 homes on the site under a Cluster scenario. It is also important to understand that the proposal made by Heritage Building Group is a performance subdivision, which was not part of the curative amendment.

20. Mrs. Alice Kachline of 529 Mill Road agreed that she would much rather have taxes raised, as previously stated by Mrs. Walker, to fight developers and protect our Township.

Mrs. Kachline asked where the open space for the development across the street from the Township building is located. Mr. Wynn replied there is open space across Rt. 152 from the Township building, behind the Township building, and behind the first two dwellings on Endslo Lane in the development itself. Mrs. Kachline wondered how that open space benefits the residents of the Foxview Hunt Development. Mr. Wynn explained that one of the proposals for some of that open space is to possibly create recreational fields for the use of all Township residents.

Mrs. Kachline's main concern about Cluster developments and open space is that there is no control in the future of what might be done with open space. Mrs. Kachline feels that allowing Cluster developments in the Rural Residential Zoning District is very dangerous for Hilltown Township.

21. At a previous meeting, Mr. Garrett Bencker of 2 Audrey Lane had mentioned the dangerous speeds exhibited on Rt. 152. Mr. Bencker was told that Rt. 152 is a State road under the control of PennDot. Mr. Bencker then contacted PennDot, who informed him that there are no speed limit signs on the road and that there has not been a comprehensive speed study on Rt. 152 since 1981, because the Township has not requested one. Due to the growth of Deep Run Valley Sports Association, the new park on Rt. 152, and the proposed athletic fields at the corner of Rt. 152 and Fairhill Road, Mr. Bencker suggested PennDot be contacted to conduct a speed study on Rt. 152. There are also many, many new developments whose residents contribute to the speeding problem on Rt. 152.

With regard to the traffic study conducted by the Elliott Group, Mr. Bencker noted they did not take into consideration other traffic that will impact the area, including lawn care maintenance, daycare providers, cable television and satellite providers, trash haulers, parcel post, UPS, utility vehicles, patio, pool and deck builders, etc..

Mr. Bencker asked who authorized the removal of the existing woodland at the end of Beverly Road, which would have separated this new development from Beverly Road residents. Mr. DiPasquale replied the Planning Commission recommended the extension of Beverly Road.

22. Mrs. Alice Kachline asked the Board to notice that all the residents who expressed their opinions this evening are from all areas of the Township, and commented the Cluster Ordinance is a concern of the entire Township.

23. Mr. Dan Rieser of Telegraph Road believes that if the Supervisors would consider rescinding the Cluster Ordinance, it is his understanding that a moratorium can be placed on all development so that a race to submit preliminary plans can be avoided.

It saddens Mr. Rieser to see disregard for the land and disregard for our neighbors. Mr. Rieser feels it is time for everyone to come together and join forces to avoid these types of developments. In recent days, someone entered the 52-acre site through Mr. Rieser's property, without permission. He feels the developer should create an access road to their property, and not use his land to gain access to the site.

Supervisor Grasse commented he purchased the property in question approximately 15 years ago. He maintained it and farmed it for 15 years, and saved it from developers when he purchased it. Supervisor Grasse has reached a point in his life where he wishes to reduce his obligations. Because of that, he gave that property to the Mennonite Foundation three years ago, long before there was ever any Ordinance established, and long before he ran for Supervisor. Supervisor Grasse has always given freely of his time to this Township on a volunteer basis and has always upheld the Township Ordinances. Supervisor Grasse stands on the statement that he read publicly at the February 22, 1999 Board of Supervisors meeting.

24. Since Supervisor Grasse ran for office on the premise of promoting growing greener, Mr. Chuck Kulesza of Diamond Street asked why Supervisor Grasse did not donate the property to the Township for open space. Supervisor Grasse replied there was not an open space issue three years ago, and he personally chose to give the property to a charitable organization. Supervisor Grasse commented it is not up to the residents of this Township what he does with his property. Mr. Kulesza agreed, however he noted the residents voted for Supervisor Grasse because he ran for office on the issue of keeping Hilltown green. Mr. Kulesza believes Supervisor Grasse lied to the residents

of this Township. Supervisor Grasse stated he ran for office on the issue of management of open space, which he still strongly supports today. Supervisor Grasse believes the present Cluster Ordinance is a good one that should be protected for the future of the Township. Mr. Kulesza feels the Cluster Ordinance is very confusing, and asked the Supervisors if they believe the number of dwellings permitted in the present Ordinance are equal to or less than what was permitted in the previous Ordinance. Supervisor Bennington does not, and that is why he intends to do something about the present Cluster Ordinance. Chairman Bennett agreed with Supervisor Bennington. Mr. Horrocks reminded those in attendance that the meeting procedures listed on the back of the agenda do not permit polling of individual supervisors.

25. Mr. Bill Bradley of 18 Beverly Road asked why the developer has not proposed two cul-de-sac streets, which would provide more of a buffer for the existing Beverly Road residents, as opposed to extending Beverly Road. Ms. Hutchinson replied it is the Township's policy to continue through streets, which is a mechanism to disperse traffic and eliminate bottlenecks for a sound traffic planning concept. Mr. Bradley is vehemently opposed to the high density proposed by this development. Discussion took place.

Mr. Bradley asked why the Planning Commission was only given two weeks to review the Cluster Ordinance prior to adoption. Further, Mr. Bradley asked if the previous Cluster Ordinance would have withstood a curative amendment. Solicitor Grabowski commented it is not a question of whether or not the previous Cluster Ordinance would have withstood a curative amendment, but rather it is a question of which Ordinance was better or worse situation. Solicitor Grabowski noted the previous Cluster Ordinance was defensible.

Mr. Bradley was very upset at the last Planning Commission meeting when the attorney for the builder threatened a curative amendment, with the possibility of constructing 400 townhomes on the Mennonite Foundation property. Mr. DiPasquale of the Elliott Building Group stated no threat of curative amendment was made. The comment he believes Mr. Bradley is speaking of was made by Mr. Fox of the Planning Commission, questioning what the developer might have proposed if the former Cluster Ordinance was still in effect. Mr. DiPasquale believes that Mr. Gundlach, the applicant's attorney, advised that if the former Cluster Ordinance was in effect and if this development had been proposed two years earlier, the developer may have filed a curative amendment.

26. Ms. Heide Patton of 47 Country Road thanked her neighbors for distributing leaflets advising of the proposals made by Heritage Building Group and the Elliott Building Group. Ms. Patton does not have time to read the newspaper, and she suggested that more notification, such as more frequent newsletters or bulk mailings, be given to residents when a major issue is up for discussion. Chairman Bennett commented



all public meeting dates are advertised at the beginning of every year and are advertised in the Township newsletter.

27. Mr. Jack Fox advised the Municipalities Planning Code states that all planning ordinances begin with review by the municipal Planning Commission. If the Planning Commission had prepared this Cluster Ordinance with the assistance of consultants as had been done in the past, Mr. Fox believes the statistical errors that exist in the new Ordinance would not be an issue.

28. Mrs. Karen Cliver of Rickert Road agreed with many of the statements made by the residents this evening. Mrs. Cliver's main concern is the impact on the schools that these large developments will certainly have. Unless these developments are age restricted, the schools will be overcrowded and taxes will rise again.

Supervisor Bennington asked if the growth ordinance mentioned by Mr. Henry Rosenberger earlier is a valid possibility. Mr. Rosenberger commented growth ordinances are valid in the states of Oregon and Washington, which seems to work very well. Unfortunately, Solicitor Grabowski noted Pennsylvania has not yet addressed these types of issues. There are school districts in the state that have filed lawsuits attempting to require developers to pay an impact tax, however it has been ruled unconstitutional in Pennsylvania. There is also no ability for municipalities to collect impact fees, other than for recreation and traffic issues. Discussion took place.

29. Ms. Valerie Blaxall advised a group has been formed to encourage community involvement called Friends of Hilltown. Friends of Hilltown focuses on preserving the quality of life in Hilltown Township, especially relating to responsible development. This group meets every other Thursday at St. Peters Lutheran Church on Hilltown Pike at 7:30PM. Ms. Blaxall invited all Township residents to attend the next meeting to be held on Thursday, March 25, 1999.

30. Ms. Maureen Lyons of Country Roads moved to Hilltown Township from Brooklyn, New York for the open space and rural atmosphere. Ms. Lyons is opposed to the development proposed by the Heritage Building Group for townhouse units, condos and apartments, which is very near her home. Ms. Lyons wants to preserve the way of life in Hilltown Township as it is today.

31. Mrs. Bernice Kirshman of Rickert Road has lived in Hilltown for 36 years, and hopes the Supervisors consider the senior citizens. With more and more houses, real estate and school taxes continue to rise. In a few years, Mrs. Kirshman will be on a fixed income and she fears what taxes might be by that time. Mrs. Kirshman is also concerned about the roads, traffic, and overcrowding in schools.

32. Mr. Jack Fox stated that under the law, once a motion is made to revise an Ordinance, no preliminary plans can be filed to make use of the Ordinance in question. Solicitor Grabowski disagreed, and explained that Pennsylvania Courts state that once an Ordinance is advertised in a newspaper, no preliminary plans can be filed to make use of the Ordinance in question.

N. SUPERVISOR'S COMMENTS:

1. With regard to the Cluster Ordinance, Supervisor Bennington noted there are three options - the Board could do nothing, the Cluster Ordinance can be revised, or the Cluster Ordinance can be repealed. If the Ordinance is repealed, Supervisor Bennington advised the likelihood is that the Elliott Group will file a curative amendment, and the Township may end up with a 200 unit townhouse development on the property behind Beverly Road. If the Ordinance is revised, the inconsistencies could be removed and the lot sizes could be made larger.

Chairman Bennett suggested the Cluster Ordinance be forwarded to the Planning Commission for further study and modification. Discussion took place as to the time frame involved for the Planning Commission to review and recommend a revision to the Cluster Ordinance.

Motion was made by Supervisor Bennington to direct the Planning Commission to thoroughly revise the changes that were made to the Cluster Ordinance with regard to density from the previous Cluster Ordinance within 60 days, with assistance from anyone the Planning Commission deems necessary. There was no second.

Motion was made by Supervisor Grasse to allow the Cluster Ordinance (#98-13) in effect and to have Ms. Ann Hutchinson review this Ordinance for possible improvement and refinement, along with the Planning Commission. There was no second.

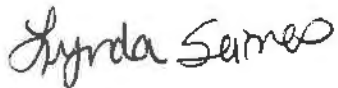
A resident felt there was a conflict of interest involved with Supervisor Grasse voting on this issue. Supervisor Grasse firmly believes he has the right and the duty as a Township Supervisor to vote on issues that affect Hilltown Township in general. Discussion took place.

Motion was made by Supervisor Bennington, seconded by Chairman Bennett, and carried unanimously to direct the Planning Commission to thoroughly revise the Cluster Ordinance with regard to density from the previous Cluster Ordinance within 60 days, with assistance from anyone the Planning Commission deems necessary. There was no public comment.

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

P. ADJOURNMENT: Upon motion by Supervisor Bennington, seconded by Supervisor Grasse, and carried unanimously, the March 22, 1999 Board of Supervisors meeting adjourned at 11:52PM.

Respectfully submitted,



Lynda Seimes  
Township Secretary