

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED PUBLIC MEETING
Monday, November 22, 1993
7:30PM

The meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:35PM and opened with the Pledge of Allegiance.

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

Chairman Bennett announced that the Supervisors and legal counsel met in Executive Session prior to this meeting to discuss personnel and legal matters.

A. APPROVAL OF MINUTES:

Action on the minutes of the October 25, 1993 Board of Supervisors meeting:

Supervisor Fox noted the following corrections -

- Page 3, second paragraph should read "Roof repairs and **brick** repointing may be required, at an approximate cost of \$50,000.00 to \$100,000.00 to maintain."

- Page 7, first paragraph should read "Motion was made by Supervisor **Bennington**, seconded by Supervisor **Fox**, and carried unanimously to adopt Ordinance #93-5, reducing the speed limit to 30 m.p.h. on Township Line Road in Hilltown Township, from it's terminus at Rt. 152 westward to the intersection of Chalfont Road, and reducing the speed limit to 45 m.p.h. on Township Line Road in Hilltown Township, for it's intersection at Chalfont Road westward to it's terminus at Hilltown Pike."

- Page 7, fourth paragraph - Supervisor Fox noted the section concerning the Public Officials Errors and Omissions policy from Scottsdale Insurance is a bit unclear. Supervisor Fox believes one dollar figure is missing from the minutes, showing that with Scottsdale Insurance, the fee would be much higher for the general policy, but lower for the police policy.

- Page 10, second paragraph should read "Supervisor Fox **doubts** there are any other municipalities in Pennsylvania who have given up their Constitutional rights, those of which the Board swears on when taking the Oath of Allegiance."

Page 2
Board of Supervisors
November 22, 1993

Supervisor Bennington noted the following corrections:

Page 22, fourth paragraph should read "Supervisor Bennington advised the \$50.00 Contractor License fee is a **one time fee** covering the entire year that it is paid in by the contractor."

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to accept the October 25, 1993 Board of Supervisors meeting minutes, as corrected.

Action on the minutes of the November 8, 1993 Board of Supervisors Worksession meeting:

Supervisor Fox questioned a section of the minutes on page 5, fourth paragraph, which states "The remaining service area shown on the map has been approved by all parties involved. Also, Centennial Ridge and Conestoga Way were both added to the map, per Souderton Ambulance Corp.." It is Supervisor Fox's understanding that members of the Fire Prevention Bureau would make the decision. Mr. Horrocks believes that decision is made by the captain or chief of the ambulance corp. Supervisor Fox asked what happens if there is not an ambulance corp. in the service district. Mr. Horrocks replied that would be the only potential conflict in the eyes of the Township. Supervisor Fox asked Mr. Horrocks to research the matter, and he agreed.

Supervisor Bennington noted the following correction:

Page 1, third paragraph from the bottom of the page, the following phrase should be deleted from the motion "**to insure the integrity....**"

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the November 8, 1993 Board of Supervisors Worksession meeting, as corrected.

B. APPROVAL OF CURRENT BILLING: Chairman Bennett presented two Bill's Lists for the Board's approval this evening. The first is dated October 27, 1993, and includes \$97,006.42 of General Fund payments, \$857.20 of State Highway Aid payments, and \$442.25 of Escrow Fund payments, for a grand total of \$98,305.87.

Supervisor Fox asked how often work shoes are purchased for the Public Works Department. Mr. Horrocks replied shoes are purchased once a year, per contract requirements. Supervisor Fox questioned the bill from Bergey's Tire and Auto Service in the amount of \$248.70, and asked if the Township has now contracted with that firm. Mr. Horrocks believes that particular bill was for repair of the one ton Public Works truck.

Page 3
Board of Supervisors
November 22, 1993

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the October 27, 1993 Bill's List, subject to audit.

The second Bill's List is dated November 10, 1993 and includes \$70,655.17 of General Fund payments and \$40,131.85 of State Highway Aid payments, for a grand total of \$110,787.02.

Chairman Bennett noted the total of this particular Bill's List was high due to the distribution of approximately \$57,000.00 for Foreign Fire Fund Insurance which is paid to Hilltown Township by the State, and then distributed to the seven responding fire companies.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the November 10, 1993 Bill's List, subject to audit.

C. TREASURER'S REPORT - Mr. Bruce Horrocks, Township Manager - Mr. Horrocks presented the Treasurer's Report with the following balances as of November 19, 1993:

General Fund Checking Account	\$ 40,884.19
Payroll Checking Account	\$ 249.97
Fire Fund Checking Account	\$ 112,446.20
Debt Service Checking Account	\$ 130,294.92
State Highway Aid Checking Account	\$ 83,905.24
Escrow Fund Checking Account	\$ 130,773.68

Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to approve the Treasurer's Report dated November 19, 1993, subject to audit.

D. RESIDENT'S COMMENTS ON AGENDA ITEMS ONLY: None.

E. CONFIRMED APPOINTMENTS:

1. Mr. Joe Olesky - Zoning Permit - Mr. Olesky previously applied for a zoning permit on Tax Map Parcel #15-23-3, a property which is zoned Commercial. Mr. Olesky wished to move an existing commercial business to that site from his present location in Souderton. Mr. Olesky's corporation has been in business, locally, since 1977. The original zoning permit application was rejected, and it proposed additions to the existing buildings on the site. Since that application was rejected, Mr. Olesky believes the existing facility, as is, can be utilized, so he again applied for a permit to use the site, however that too was rejected. Mr. Olesky presented information showing the property as it exists today to the Board of Supervisors.

Page 4
Board of Supervisors
November 22, 1993

Supervisor Fox asked the applicant how long he has been using the property. Mr. Olesky does not own the property at present and is in the process of purchasing the site. The location of Mr. Olesky's current building is on Reliance Road in Souderton.

The first page of the plan shows the property and it's location at Spur Road and County Line Road. The second page shows the house in relation to County Line and Spur Roads, and the garage located in the rear of the site, which is an existing 40' X 60' building. The areas shown are in blacktop at present, and there are some areas also in stone. Inside the house, there is an efficiency apartment which Mr. Olesky would like to utilize as an office. In order to move his used car dealership license to qualify for the State, Mr. Olesky must obtain approval from Hilltown Township.

Mr. Olesky explained there is an existing sewer drop and water on the site that is presently being used to dump waste from the motor homes which are a part of the existing business. Mr. Olesky proposes to close that sewer drop and water system, and move it into the garage to use it as employee rest room facilities. Employees for Mr. Olesky's business include himself, his son and his nephew. Supervisor Fox asked if the RV vehicles presently located on the site belong to the applicant. Mr. Olesky replied they are not his vehicles, they belong to the present owner of the property.

Supervisor Fox explained the major problem with this site is that the Township has no record of a business operating or even of a building being constructed, since it appears no building permits were ever issued for the site. Mr. Olesky believed the present owner of the property had obtained the proper building permits. Supervisor Fox stated the building on site was constructed without permits, and if Mr. Olesky wishes to make an addition to the building, being a Commercial property, he must apply for land development. Mr. Olesky advised he does not wish to make an addition to the existing building at this time, as he feels he can utilize the facilities as they are. In the future, should he wish to construct an addition, Mr. Olesky does not mind applying for a land development. Mr. Olesky believes the building was constructed seven years ago, and stated the owner of the site claims he obtained all necessary permits. Apparently the owner of the property received a recent notice of violation from Hilltown Township, stating the Township was unaware that a business was being operated on the site, and giving the owner time to rectify the situation.

Mr. Wynn asked if there was an efficiency apartment in the house, and Mr. Olesky replied that there is. The owner of the property is presently living in the house, which consists of two dwelling units. The owner has been there for quite some time, though Mr.

Olesky believes the dwelling was formerly used by a church to house ministers in transit. Mr. Wynn asked what the 40' by 60' building is presently being used for. Mr. Olesky replied the building was used as a warehouse while the owner operated a recreational vehicle rental business, however it is not being used at present. Mr. Wynn questioned the existing sewer the applicant spoke of earlier. Mr. Olesky stated the existing sewer is tied into the septic system. Mr. Wynn asked if a permit was obtained to tie into the septic system. Mr. Olesky replied the property owner told him the sewer was originally on site.

Mr. Horrocks noted the only record of correspondence with the current property owner, Mr. Kulp, is that he was copied in on the two zoning permit application rejection letters sent to Mr. Olesky. Mr. Kulp had told Mr. Olesky that he received copies of the two rejections letters, but also received another letter from the Township advising there were no permits obtained for construction on that site.

Supervisor Bennington asked if Mr. Kulp ever produced an approved permit for the garage itself. Mr. Olesky replied he never asked to see it. Mr. Wynn asked if Mr. Kulp received L & I approval for the building. Mr. Olesky commented the garage has not been used for any thing that L & I would have to grant approval for since there is no one working in it. Mr. Olesky is aware that he must obtain L & I approval to use the site, in order to get his dealer plates for that location.

Mr. Wynn asked what restroom facilities will be utilized for Mr. Olesky's employees. Mr. Olesky replied there is a restroom in the efficiency apartment of the existing house. Mr. Olesky would like to close up the water and existing sewer drop and move it into the building in order to supply restroom facilities. Mr. Wynn advised that is not permitted under Bucks County Health Department regulations. For the applicant to utilize the septic system for the house in conjunction with a separate building's plumbing facilities is not permitted. This would be a proposal to use a common septic system for two separate buildings on the same tract, which is considered a community system. Mr. Olesky commented the entire site can be used for his purposes the way it is at present.

Supervisor Bennington believes the Kulp's used the site under the mistaken impression that since it is located within a Commercial Zoning District, it could therefore be utilized as a Commercial property, even though they only have a permit to be a resident in a Commercial district. Supervisor Fox agreed, stating the present owner or the future owner will have to obtain permits for the building on the site and for the use of the site.

Supervisor Fox asked Mr. Olesky what type of work he performs. Mr. Olesky runs a used car lot, performing detailing and reconditioning of vehicles. Supervisor Fox feels a land development submission should be required in this instance. Mr. Wynn explained there is a Subdivision/Land Development Ordinance which spells out requirements for plan preparation and submission. The applicant must retain a professional surveyor or engineer to prepare the plan in accordance with the Ordinance, and that plan is then submitted for review by the Bucks County Planning Commission, the Hilltown Township Planning Commission, and the Bucks County Department of Health. Ultimately, the Board of Supervisors will receive comments and recommendations from the Township Engineer and the Township Planning Commission concerning the proposal, in order to decide whether or not to approve the plan. Mr. Olesky asked if it will make a difference if the owner of the site is in possession of permits for the construction of the building. Mr. Wynn believes it will make a difference as to what else may be required for the proposal. Mr. Wynn is concerned that the building setbacks may be incorrect and may not conform to requirements for the Commercial Zoning District. If a permit was issued for construction of the building, there will not be a question, however, if there no permit was issued, the applicant may be required to appear before the Zoning Hearing Board with regards to the location of the building. Mr. Olesky believes the location of the building is within the zoning requirements, as it is set 27 ft. from the rear property line and 16 ft. from the side property line. Mr. Wynn did not have a copy of the Zoning Ordinance with him, however he believes the building would comply for an accessory building, though it is now a principal use, which is a different setback requirements.

Supervisor Fox suggested the Zoning Officer and the Code Enforcement Officer inspect the site and attempt to determine if permits for that building exist. Mr. John Friel, former Zoning Officer, met with Mr. Kulp on November 15, 1993, who advised that he does have permits for the building and that he would produce them. However, to the best of Mr. Horrocks' knowledge, the Township has not received copies of permits. Supervisor Fox suggested that Mr. Kulp present those documents to the Township, though a land development submission from Mr. Olesky will still be required.

F. MANAGER'S REPORT - Mr. Bruce G. Horrocks, Township Manager - Mr. Horrocks presented the following eleven Escrow Releases for the Board's approval this evening, all but one being Letters of Credit:

Anders Carpets	Voucher #05	\$ 624.05
BFI	Voucher #18	\$ 962.55
Carney Land Development	Voucher #11	\$ 139.65
Carney Land Development	Voucher #12	\$ 6,409.25

Country Roads Phase I	Voucher #21	\$ 772.65
Country Roads Phase I	Voucher #22	\$25,127.00
Country Roads Phase I	Voucher #23	\$14,000.00
Orchard Station	Voucher #1A	\$ 159.15
Pleasant Meadows Phase III	Voucher #31	\$ 1,784.95
Sterling Knoll Phase II	Voucher #56	\$ 1,617.95
Sterling Knoll Phase II	Voucher #57	\$39,343.23

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to release the eleven Escrows as stated above.

2. Lynda Seimes, Township Secretary, has been attempting to address requests from Bell of Pennsylvania and the Bucks County Radio room with regards to house numbers for 911 emergency service. It has come to our attention that along Rt. 113, there are triplicate house numbers for several different dwellings. This could present difficulties when emergency personnel must respond to calls at any of those locations. Mr. Horrocks requested the Board's authorization to review house numbers, street by street, with the possibility of renumbering portions or the entire length of Rt. 113, if necessary. The current situation is unsafe for emergency response through 911 service.

Chief Egly commented Rt. 113 should be numbered with directionals of north and south, with Silverdale Borough being the dividing line. Mr. Horrocks advised Sellersville house numbers run from 201 to 834, Perkasio house numbers run from 100 to 2001, and Silverdale Borough house numbers run from 2 to 28. Mr. Horrocks suggested he and Chief Egly jointly review roadways within the Township with regards to house numbers to insure safety of Hilltown residents, renumbering if necessary. The Board was in agreement to Mr. Horrocks' suggestion.

3. A request has been received from Eastern Pennsylvania House Against Hunger Committee for the Board to consider waiving building, zoning, and licensing fees for the construction of a home in Bridle Run, Lot #15. This is a non-profit organization building a home with donated materials and volunteered time from professional builders. Mr. Paul Witter, treasurer of the Eastern Pennsylvania House Against Hunger Committee, was in attendance to explain that proceeds from the sale of this home will go to Mennonite Central Committee, which is a worldwide relief agency, to fight hunger and to teach better nutrition. In 1992, the organization constructed a similar home in the borough of Souderton.

Chairman Bennett asked what the total amount of fees might be that the Board is considering waiving. Mr. Brooke Rush of David Brooke Rush Builders believes the fees total approximately \$700.00.

Supervisor Fox asked if that includes fees to other organizations such as the Bucks County Conservation District. Mr. Rush replied the Bucks County Conservation District has agreed to waive their fee. Also, a very minor fee of \$7.00 for a Notice of Intent to Construct permit to the State is required, which the organization has already paid.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to waive permit fees collected by Hilltown Township for the Eastern Pennsylvania House Against Hunger Committee project on Lot #15 of Bridle Run.

Supervisor Fox noted in the past, the Township has been very liberal with waiver requests from non-profit organizations, however the citizens of Hilltown Township, via taxes, are then responsible. Chairman Bennett agreed there have been many waiver requests during the past few years from non-profit organizations.

4. Mr. Horrocks advised Mr. Timothy Patton has been hired as a Public Works employee, replacing Mr. Scott Lear who resigned his position this past summer. Also, Mr. John Friel resigned his position as part-time Zoning Officer, and has been replaced with Mr. Warren Nace, who began his employment with Hilltown Township today. Mr. Nace comes to the Township with zoning experience as the chairman of the Zoning Hearing Board of New Britain Borough.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to appoint Mr. Warren Nace to the position of part-time Zoning Officer.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington and carried unanimously to appoint Mr. Timothy Patton as a Public Works Department employee.

5. For the Board's information, the proposed amendment to the Zoning Ordinance concerning B5 Conversion has been forwarded to the Bucks County Planning Commission for their review. The Bucks County Planning Commission has thirty days to review the proposal, after which time a Public Hearing will be advertised for the possible adoption of the amendment.

6. A signed modification to the current quarry agreement was received from Haines and Kibblehouse. The two basic parts of the agreement meaningful to the Public Hearing which was held, includes that H and K shall be permitted to operate one asphalt blacktop batching plant at the Skunk Hollow Quarry site, and one concrete batching plant at the Blooming Glen Quarry site; and that all other terms and provisions of the original agreement are hereby confirmed and shall remain in full effect.

Chairman Bennett asked if the issue of speed is part of a separate agreement. Mr. Horrocks replied H & K has agreed to supply a statement to the Township on their letterhead stipulating that all H & K and Blooming Glen Contractor vehicles will not exceed 5 miles an hour under any posted speed limit sign in Hilltown Township. Chief Egly requested that Rahns' vehicles, the concrete batching plant that runs out of Blooming Glen Quarry, be added to that statement. Mr. Horrocks will inform H & K Quarry. Supervisor Bennington believes the key issue here is that all other terms and provisions of the original agreement are hereby confirmed and shall remain in full effect.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to approve the terms of the agreement with H & K Quarry.

7. Mr. Horrocks requested the Board adopt Resolution #93-45, authorizing application for a Safety Belt/Child Restraint/Motorcycle Helmet Use Grant.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to adopt **Resolution #93-45 authorizing application for a Safety Belt/Child Restraint/Motorcycle Helmet Use Grant.**

8. Mr. Horrocks presented the first draft of the proposed 1994 Budget, stating the document is completely unedited. No review has been made of figures received from various departments, and the first draft is basically a "wish list" submitted by department heads.

Mr. Horrocks explained the numbers shown on the budget draft are total revenues from a year ago budgeted at \$2.3 million and 1994 revenues are estimated at \$2.1 million, which is a reduction of approximately 8% or \$184,000.00. There are some increases and decreases throughout revenues, with real estate taxes going down nominally, by approximately 2.5%, and earned income tax increasing. One area that is down significantly by approximately 38% is all of the permits, including building, zoning, electrical, plumbing, signs, etc., with this year's revenues being far below what was forecasted. With regards to expenditures, a year ago the total of expenditures was \$2.344. This proposed unedited version of the budget, previous to any cuts, is at \$2.392, which is an addition of approximately \$230,000.00.

Further, Mr. Horrocks stated the Board of Supervisors will be holding a Budget Worksession on Wednesday, December 1, 1993 at 6:30PM to discuss the Public Works and Police Department portions of the proposed budget.

1806

Chairman Bennett commented there has always been a problem with the first cut of the budget draft, however he has never seen one this big, which will require serious thinking and many cuts. Having reviewed the draft preliminarily, Chairman Bennett believes the revenue projections are fairly reasonable. Supervisor Fox agreed, stating that cuts will have to be made since the only alternative is to increase taxes, which he does not believe the Board wishes to do.

Supervisor Bennington stated there is no bigger proponent of the police force than himself, and he believes police coverage and service to Township residents is most important, particularly in this year of rising crime. However, based upon the large percentage of the budget, which consists of expenditures for police services, Supervisor Bennington believes the Township should begin looking at alternatives to our current level of police service. Other municipalities throughout central and upper Bucks County are consolidating or contracting for police services, enabling them to maintain the same or better level of services while decreasing the overall cost. Since the Department of Community Affairs will perform studies free of charge to evaluate the feasibility of these alternatives, a motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to direct Mr. Horrocks to contact DCA, asking them to initiate a study for the use of these possible alternatives.

Chairman Bennett agreed with Supervisor Bennington's statements, advising the police department is the logical place to look, since more than half of Hilltown Township's budget consists of police services. Also, in terms of personnel, there is a total of 16 employees in the police department, out of a total of 27 employees in Hilltown Township overall. The Supervisors will look in all areas in order to cut the budget, however the police department is an area where more than 50% of expenses exist at present. Supervisor Fox feels the same, stating that Hilltown Township will run out of taxes in the very near future since we only have so many more mills that we can raise taxes, which is not the way to go. Supervisor Fox does not believe the Township needs less police protection, but rather more police protection for the money the Township has to spend. Supervisor Fox believes having DCA review our police operation for some sound recommendations is a good idea. Chairman Bennett commented the Department of Community Affairs is very helpful in these types of studies. Hilltown Township had a similar study conducted approximately five years ago.

Chief Egly asked what will happen if DCA again reports, as they did five years ago, that the police department should add three more officers. Chairman Bennett replied he does not have an answer for that until the department is reviewed by DCA, and then forwarded to the Board of Supervisors.

1802

G. CORRESPONDENCE - Mr. Bruce G. Horrocks, Township Manager -

1. A request has been received from a resident asking permission to rent space in the parking lot behind the former municipal building in Blooming Glen to store his 21 ft. sailboat for approximately 2 - 3 years.

Chairman Bennett suggested the resident store his boat at a place which is designed for storage purposes. Since the Township is in the process of expanding the Park and Recreation facilities at that site, Chairman Bennett feels anything of this nature may be subject to vandalism or damage. Supervisor Bennington noted the resident has agreed to assume all responsibility for the safety and storage of his boat, and is willing to pay the Township for rental of two parking spaces. Within the next two weeks, Mr. Horrocks advised the parking lot of the former municipal building will be dug up as the Township removes the last underground gasoline tank. Mr. Horrocks is also concerned with people visiting the thrift shop, which is located in the former municipal building. Even with the resident assuming responsibility for his boat, it is very possible that damage may occur. Further, Chief Egly noted that children playing in the area could be injured, and even though the resident is willing to assume liability, the Township could still be named in a lawsuit because it is located on Township property. Supervisor Fox stated there are storage facilities in the area who are in business to do just what this resident has proposed, at prices much higher than the resident is willing to pay the Township. Supervisor Fox does not believe the Township should consider this request, and the Board was in agreement.

2. A meeting will be held on Wednesday, December 8, 1993 for the Rt. 313/Rt. 663 Task Force. The Board directed Mr. Horrocks to attend that meeting.

H. SOLICITOR'S REPORT - Mr. Francis X. Grabowski, Township Solicitor -

1. Solicitor Grabowski presented development agreements and financial security agreements for Tel-Vil Corporation, which is for a subdivision of eleven lots in the Cherry Lane/Cherry Drive area of Hilltown, near old Rt. 309. Tel-Vil Corporation has secured the deposit of \$215,187.71 by the issuance of a letter of credit through Union National Bank and Trust Company. In addition, a drainage and retention basin easement agreement was presented, along with easements for Cherry Lane and Cherry Road right-of-way, and a petition to request the establishment of a street light assessment once the project is underway and substantially completed.

1464

Page 12
Board of Supervisors
November 22, 1993

Motion was made by Supervisor Bennington, seconded by Supervisor Fox and carried unanimously to approve Tel-Vil Corporation agreements; and to adopt Resolution #93-46 and #93-47 which provide for the acceptance of the retention basin easement drainage agreement and also the declaration of easement.

2. Solicitor Grabowski presented the Thornton Holding Tank Maintenance Agreement. Discussion took place at the October 25, 1993 Board of Supervisor's meeting concerning this issue with regards to certain revisions to the Holding Tank Agreement, since the holding tank had inadvertently placed within the setback area of the property. The agreement was revised to reflect that the holding tank will be moved if need be, and the question of road widening in the future was addressed. Also, Mr. Thornton agreed that any disposal of the tank will not take place with trucks parked on the shoulder of the roadway. In addition, \$1,000.00 will be held in escrow by the Township, to guarantee successful performance of the agreement. The application fee of \$300.00 was also paid.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the Thornton Holding Tank Maintenance Agreement, and to accept the escrow and application fees for same.

3. Solicitor Grabowski presented information concerning another Holding Tank Agreement for Ms. Sherry Platt who is the title holder of the antique store at the intersection of Rt. 113 and Telegraph Road. As in the case of Mr. Thornton, the Township is in receipt of the escrow in the amount of \$1,000.00 to secure the successful maintenance of the system, and an application fee of \$300.00 has been paid.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the Holding Tank Maintenance Agreement of Ms. Sherry Platt, and to authorize execution of said agreement.

4. Solicitor Grabowski presented agreements for the Nickel Subdivision. There has been an offer of an easement of right-of-way to the Township by the applicant. In order to accept the declaration of easement that has been offered, Resolution #93-48 must be adopted.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to adopt Resolution #93-48 which accepts the Declaration of Easement for the Nickel Tract Subdivision.

1866

5. Three items of litigation were discussed in Executive Session prior to this meeting. The first two involve decisions by the Bucks County Court of Common Pleas which were rendered within the last week.

Solicitor Grabowski explained the court has found in favor of the Township and the protestants in the Jones' Topsoil case with regards to the use of the property. As a result of that decision of Bucks County Court, there has been an appeal filed by the landowner involved to the Pennsylvania Commonwealth Court. Solicitor Grabowski asked the Board to consider if Hilltown Township should actively oppose the appeal which has been filed. Solicitor Grabowski explained the procedure and costs involved to do that. The appeal period for the applicant is effectively 30 days from date of decision, and the applicant has now filed his appeal. There will be a schedule distributed by the Commonwealth Court out of Philadelphia within the next two or three months, giving a briefing schedule. The Commonwealth Court's interest in the case is simply in the legal argument, they will not hear any additional testimony, nor will there be any traditional court hearings. The attorneys involved will argue the legal issues, with the landowner's attorney arguing as to why they feel the case decision should be reversed. If the Board wishes for the Township to be actively involved in the appeal, the Township Solicitor's position would be to defend the decision of Bucks County Court, as well as that of our own Zoning Hearing Board. There is a time period of approximately 60 days to do that.

Supervisor Bennington suggested that the Zoning Officer visit the Jones' Topsoil site in order to enforce the Bucks County Court decision, hoping that the Commonwealth Court does not "put it on hold" until they make a decision. Solicitor Grabowski stated at this point, the Township has a decision in their favor by the Bucks County Court, which says that the activity is not valid and is in violation of the Hilltown Township Zoning Ordinance. There is a procedure that, conceivably, the landowner may attempt to ask the Commonwealth Court for relief to stop the Township from enforcing their Ordinance during the course of the appeal. That has not yet been filed, although the Township Solicitor has not seen any of the paperwork that is to be filed. Without the Commonwealth Court telling Hilltown Township that they can not enforce their Ordinance during the course of the appeal, Solicitor Grabowski believes the Bucks County Court decision is "the law of the land". Therefore, Supervisor Bennington believes the Zoning Officer should enforce the decision, and the Board agreed.

Chairman Bennett asked for an estimate of what the formal appeal might cost the Township. Based on prior cases before the Commonwealth Court, Solicitor Grabowski believes it may cost approximately \$2,500.00 to \$3,000.00, depending on the extent of

1808

the brief which must be filed with the court. If the Board believes the Bucks County Court decision is correct, Supervisor Fox feels Hilltown Township should show the Commonwealth Court that they stand behind that decision and are willing to defend it. Supervisor Bennington suggested the residents who are affected by this decision comment before voting on the issue.

Mr. Charles Kozitsky of 1305 Green Street owns a property adjoining the Jones' property. He and his neighbors have been fighting this business for the last several years. Mr. Kozitsky spoke for those in his neighborhood, asking the Board of Supervisors to fight the Jones' Topsoil matter as much as they can, mainly to enforce the laws in Hilltown Township's own Zoning Ordinance, which is as powerful as anything the Township wants it to be. Mr. Kozitsky asked what Mr. Jones can do after the Commonwealth appeal. Solicitor Grabowski replied the Commonwealth appeal effectively ends the matter as a zoning issue. Mr. Kozitsky agrees with Supervisor Bennington that the Zoning Officer should shut down Jones' Topsoil. This firm has been in business, illegally, for several years, sometimes operating until 8:00PM, as well as on Saturdays and Sundays. Mr. Kozitsky has documented times and dates of hours of operation and stated that during testimony at the Zoning Hearing Board meeting, Mr. Jones lied about his hours of operation. Mr. Kozitsky agrees that Mr. Jones did attempt to appease neighboring residents by cutting back on some of his operation, however he is still operating a non-conforming business in a residential district. Mr. Kozitsky is appealing to the Board of Supervisors to pursue this matter.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to fight the appeal process by Jones' Topsoil.

6. Solicitor Grabowski explained there has been a decision by Judge Biehn, dated November 17, 1993, reversing the decision of the Hilltown Township Zoning Hearing Board, and granting Bernie Enterprises a variance to use the property in the same manner and to the same extent as it was used on August 8, 1988. Solicitor Grabowski noted the Township was involved in numerous hearings in the past concerning Bernie Enterprises, and there are some issues which have not been addressed within the decision at all. In this case, there were protestants at the hearing, represented by Attorney Bushman. Solicitor Grabowski has not yet had the opportunity to speak with Attorney Bushman as to whether or not his clients are interested in filing an appeal from the decision. Since the court reversed the decision of the Hilltown Township Zoning Hearing Board, Solicitor Grabowski advised the Supervisors must decide whether they wish to take an appeal to the Pennsylvania Commonwealth Court, which must be done within 30 days of the date of this decision.

1810

Mr. Earl Smith of 608 Keystone Drive also received a copy of the Zoning Hearing Board decision which Judge Biehn overturned. Mr. Smith did not have the opportunity to notify any of his neighbors to be present this evening, however as the Board knows, over the period of time that the five hearings were held concerning Bernie Enterprises, there was quite a large turnout of neighboring residents who are affected by and opposed to Bernie Enterprises. Mr. Smith believes the overturning of the Hilltown Township Zoning Hearing Board decision overlooks the residents' rights to compliance with regulations of a "junkyard". In Mr. Smith's estimation, this decision will allow the junkyard to continue operation in an illegal manner and does not adhere to the Township regulations of a junkyard. Mr. Smith advised the same junk vehicles have been parked in the front of the site for the past two years, and they continue to operate at unreasonable hours. Last week, for instance, at two separate times, tractor trailers were observed leaving the Bernie Enterprises site at 10:00PM. There is also no fencing around the property, the side setbacks have not been observed since the property is being used right up and actually over the property lines, and oil on the ground has been noted by the Township Manager on at least one occasion. With the overturning of that Zoning Hearing Board decision, Mr. Smith does not believe Bernie Enterprises will conform to any zoning requirements.

Mr. Smith explained the judge based his decision on the Supervisor's approval of August, 1988 as a non-conformity. Mr. Smith quoted the judge's opinion, which follows "The Board found that the Township failed to enforce this Ordinance for a sufficiently long period of time, and that the Township knew or should have known about the violation. The Board also stated Hilltown Township acquiesced in the illegal use when it's Board of Supervisors on August 8, 1988 approved the previously quoted motion".

Mr. Smith advised the neighboring residents were never notified of the 1988 decision, and feels they should have been, in order to allow resident's input concerning the case. Mr. Smith believes the Township has a responsibility at this time to rectify the miscarriage of justice that occurred, and implores the Supervisors to bear it's responsibility and explore whatever legal avenues are available. Mr. Smith hopes and expects that the Board of Supervisors will do the right thing.

Solicitor Grabowski asked if Mr. Smith's citizen's group will be active in terms of appealing this decision. Mr. Smith replied there is a good possibility, however he would also like to see the Township uphold their responsibility in this matter, since the neighboring residents were never notified at the time. Solicitor Grabowski commented one of the items not discussed in this subpoena

at all is the very issue of notice to neighboring residents. If the citizen's group does decide to become involved along with their attorney, the Township Solicitor would certainly like to cooperate to produce the record together. Mr. Smith agreed, however he wishes the Board to understand that he expects the Township to take action, because it is the residents who have had to suffer with Bernie Enterprises as neighbors.

Obviously, Supervisor Bennington stated, it was a very poor decision by the Board of Supervisors in 1988, a decision the present Board has attempted to rectify since it was brought to their attention. Supervisor Bennington is amazed that the judge would not hear the testimony of neighboring residents and all the problems they brought to the Supervisor's attention. What concerns Supervisor Bennington the most, is that when the case gets to the next judicial level, they may uphold the previous court's decision because they do not wish to overturn a decision of a lower court. As the Supervisors have done for the Jones' Topsoil case, Supervisor Bennington believes the Township must appeal this decision, hoping that residents comments will be heard this time in Commonwealth Court.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to follow up the appeal of the Bernie Enterprise Zoning Hearing decision which was overturned by Judge Biehn.

Supervisor Fox encouraged the neighboring residents of the Bernie Enterprise site to become a party to this appeal.

7. Solicitor Grabowski explained Rents, Inc. is the owner of the property at the intersection of South Perkasio Road and Blooming Glen Road. This matter was before Judge Scott in September of this year when a court hearing was held to determine why Rents, Inc. should not be held in contempt for having failed to vacate the property. Eagle Traffic is the tenant of the property who was found in violation for outside storage activities on the site, though they agreed to have all outside storage removed by December 1, 1993. Eagle Traffic claims they have not received notification from it's landlord, Rents, Inc., in terms of zoning requirements and things of that nature. Eagle Traffic has attempted, in good faith, to remove themselves from the site, by submitting information advising they are purchasing a property in Hatfield Township, Montgomery County, where the zoning will allow for outside storage of their inventory. That move was to have taken place on or before November 15, 1993, however Eagle Traffic has experienced some difficulties in pursuing the closing date on their new property in Hatfield Township. Solicitor Grabowski received a letter from Eagle Traffic Control, dated November 19, 1993, which requests an extension of time until December 15, 1993,

before the Township takes any further legal action against them. Eagle Traffic Control, of course, is obligated to pay the \$50.00 penalty per day for whatever period of time after December 1, 1993 that the violation continues. The Board agreed to table this issue until the December 13, 1993 Worksession meeting.

I. PLANNING - Mr. C. Robert Wynn, Township Engineer -

1. Hilltown Baptist Church - The site is located at the intersection of Upper Church Road and Stump Road, at the border of New Britain Township, with a small portion of the parcel actually located in New Britain Township. The plan proposes to subdivide an existing house located on Upper Church Road, from the rest of the improvements on the site, which includes the church parking lot, the cemetery, a mobile home and another dwelling, as well as a few outbuildings. All the improvements, with the exception of the dwelling that is being subdivided off, are located on the border between New Britain and Hilltown Township. The house is located northwest on Upper Church Road. There is no construction proposed by this plan. Correspondence has been received from New Britain Township indicating they have no negative comments after review of the plan.

Mr. Wynn advised the plan received a unanimous recommendation of final plan approval by the Planning Commission, subject to only one condition, which is the dedication of Upper Church Road right-of-way to the Township, as shown on the plan. It is the shaded portion shown on the plan across the frontage of Lot #1 and the undeveloped portion of Lot #2. Some of those private improvements in the area on Lot #2 containing the church, cemetery and other improvements are located within the ultimate right-of-way and therefore, have not been offered for dedication. This was acceptable to the Planning Commission, under the circumstances.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to grant final plan approval to the Hilltown Baptist Church, subject to dedication of right-of-way in those areas on Lot #2 and all of Lot #1.

2. Wietecha Subdivision - Mr. Wynn advised the site is located on Mill Road, and proposes one new building lot. Lot #1 will contain the existing farmhouse and various outbuildings, and will consist of approximately 17 acres. The new building lot, Lot #2 on the plan, will consist of approximately 8 acres. This plan proposes both lots to be served by on-site water and sewer. Mr. Wynn noted the septic system for Lot #1 is actually located on the opposite side of the roadway and was recently repaired. There is an easement on that parcel for the septic system.

1816

This plan was also unanimously recommended for approval by the Planning Commission, subject to three items. One is that the Planning Modules for the on-site septic systems be approved by the Bucks County Health Department and DER. Those Planning Modules are still being delayed due to the requirement to install a new septic system for Lot #1. The second condition consists of dedication of right-of-way of Mill Road across the frontage of the tract, as offered on the plan. The third item is the installation of Class A Buffer trees before plan recordation or establishment of an escrow to guarantee that installation. Mr. Wynn believes the applicant has established a cash escrow.

Mr. and Mrs. David Constanzer, owners in equity of Lot #1, were in attendance to present the plan. Supervisor Fox noted that the issue of clearing the thorn roses bushes along the "S" curve of Mill Road was mentioned to Mr. and Mrs. Constanzer at the Planning Commission meeting. Mrs. Constanzer advised all the thorn rose bushes have been removed from the "S" curve on Mill Road.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to grant final plan approval to the Wietecha Subdivision, pending completion of those three outstanding items as specified above.

J. ENGINEERING - Mr. C. Robert Wynn, Township Engineer -

1. Pleasant Meadows Box Culvert - Mr. Wynn explained the Pleasant Meadows Box Culvert construction is continuing. The channel has been relocated through the culvert at this point, and curb construction is expected to begin tomorrow. Obviously, due to the time of year, final wearing surface will not be installed until spring, however once the roadway is in binder, it will be open to traffic. Mr. Wynn believes the road will be open, in binder, by the end of the year. Wetland areas have all been rough graded and mulched.

2. Reliance Road Traffic Signal - The traffic signal at Reliance Road was placed on flash at 2:00PM this afternoon, and will go to full cycle next week. There will then be a thirty day test period to determine if timing mechanisms are operating properly, and whether or not the theory is appropriate for the actual traffic.

3. Sterling Knoll Subdivision - A request has been received for the Board to accept dedication of improvement in the Sterling Knoll Subdivision. At this point, there are some minor items to be accomplished, and Mr. Wynn expects those items, as well as a letter of credit or the 10% maintenance, will be before the Board at the next meeting for acceptance of the streets and other public improvements in that development.

1518

4. Tel-Vil Corporation Subdivision - Mr. Wynn noted construction has begun on the site, including silt fence installation and retention basin construction. At this time, construction will go very slowly or will even stop for a short period of time because the surveyed plan is incorrect. Mr. Wynn explained there is a 12 to 18 inch error in the original topographic survey, which is exactly what happened previously in Sterling Knoll. This issue must be resolved before the applicant may proceed with road construction.

5. Carney Land Development - This land development plan is for a driving range on Rt. 309 and Mr. Wynn stated the maintenance period for the public improvements is expiring at the end of this month. Those public improvements include curbing and widening of Rt. 309, tree and buffer plantings which were installed, and the installation of the retention basin. Mr. Wynn recommends the Board accept completion of the maintenance period.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to release those funds, and to accept completion of the maintenance period for the Carney Land Development.

6. Cefelli Tract Subdivision - The Cefelli Tract Subdivision, located on Blooming Glen Road, almost in East Rockhill Township, contains a cul-de-sac street with five lots. There are houses constructed on all the lots and the street was installed approximately 16 months ago. At the initial design review stage of this plan, the development was required to have a community water system. During the process of plan review, the Hilltown Township Water and Sewer Authority arranged to provide public water service to the site, therefore eliminating the community water supply. However before there was a commitment by the Hilltown Authority for public water, the applicant drilled two wells for a community water supply. Both wells are located at the end of the cul-de-sac street. It is noted on the plan that "Test wells are to be plugged and abandoned". In the punchlist of items for the developer to complete, Mr. Wynn included the fact that both wells had to be capped. The owner of Lot #5, Mr. James Stauffer, has requested that the shallowest and most productive well located on his property remain unplugged, so that at some time in the future, it can be used to water his lawn and shrubbery. It will never be used for domestic water. Mr. Stauffer does not mind if the developer plugs the deepest well, however he requests that the well located on his property not be plugged. Both wells are located in a snow removal/storage easement area of the cul-de-sac, but not in the right-of-way. The well Mr. Stauffer is speaking of is located 28 ft. from the curb of the roadway. At this point, the plan requires that both wells be capped.

1824

Supervisor Fox asked if the plan has been recorded, and Mr. Wynn replied that it has. Solicitor Grabowski mentioned the possibility of potential contamination of the groundwater supply during the snow removal process, which may push road dirt and salt onto the well cap, or even into the well itself, if for some reason the well cap is removed. Discussion took place concerning the possibility of groundwater contamination. The Board was in agreement to require that both wells be capped and sealed, as is noted on the plan.

K. RESIDENT'S COMMENTS:

1. Mr. John Snyder thanked Mr. and Mrs. Constanzer for cutting back the rose bushes along Mill Road.

With regards to the court decision on Bernie Enterprises, Mr. Snyder advised there was a second appeal started on the same evening that the Zoning Hearing Board reached it's decision on the first appeal. The applicant then requested a continuation of the second appeal, pending the outcome of the first decision, which is still in appeal period. Mr. Snyder knows there was some concern at that time with the Solicitor, and the last word from the Solicitor was that he would do nothing further on either appeal unless directed by the Board of Supervisors or by the Township Manager. Mr. Snyder feels the Zoning Hearing Board must "get up to speed" on the second appeal so that the Township does not run out of time, thereby allowing construction of Bernie Enterprises second building.

Supervisor Fox asked if the large building on the site of Bernie Enterprises was ever officially an issue before the Zoning Hearing Board. Mr. Snyder replied that came in, and at the conclusion of the Zoning Hearing Board's deliberation on the first appeal, a 45 minute hearing was held, and the applicant asked for a continuance pending the outcome of the first appeal by Bernie Enterprises. The second appeal is in limbo, waiting for an outcome, though there is now somewhat of an outcome, with the decision by the judge. Solicitor Grabowski will speak with Solicitor John Rice, who attended the hearing, and with Solicitor Jeff Drake and Attorney Bushman in order to resolve the point Mr. Snyder mentioned.

L. SUPERVISOR'S COMMENTS:

1. This is the fifth budget process Supervisor Bennington has been involved with, and he is very concerned about it. There are some serious problems that must be addressed, which is the reason he made the motion for the Department of Community Affairs to review the police department for possible alternatives.

1836

Page 21
Board of Supervisors
November 22, 1993

Chairman Bennett stated he is also very concerned. He voted against the last tax increase, and he certainly does not intend to vote for a tax increase for 1994. Supervisor Bennington commented Chairman Bennett's alternative to a tax increase last year was to cut two police officers, which Supervisor Bennington was and is adamantly opposed to.

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

N. ADJOURNMENT: Upon motion by Chairman Bennett, and carried unanimously, the November 22, 1993 Hilltown Township Board of Supervisors meeting was adjourned at 10:05PM.

Respectfully submitted,



Lynda Seimes
Township Secretary