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**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
REGULARLY SCHEDULED PUBLIC MEETING
Monday, October 25, 1993
7:30PM**

The meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:40PM and opened with the Pledge of Allegiance.

Also present were: Kenneth B. Bennington, Vice-Chairman
Jack C. Fox, Supervisor
Bruce Horrocks, Township Manager
Mary Eberle, Township Solicitor's Office
C. Robert Wynn, Township Engineer
George C. Egly, Chief of Police

Chairman Bennett announced that Solicitor Grabowski would not be in attendance, due to a death in his family. Ms. Mary Eberle of that office will be taking his place this evening. Chairman Bennett announced the Supervisors and legal counsel met in Executive Session prior to this meeting to discuss legal matters.

A. APPROVAL OF MINUTES:

Action on the minutes of the September 27, 1993 Board of Supervisor's Meeting: Supervisor Fox noted a correction on page 17, which should read "Mr. Wynn does not know because there has been no design proposal provided by the applicant at this time."

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the September 27, 1993 Board of Supervisor's Meeting, as corrected.

Action on the minutes of the October 11, 1993 Board of Supervisor's Worksession Meeting: Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the October 11, 1993 Board of Supervisor's Worksession Meeting, as written.

B. APPROVAL OF CURRENT BILLING: Chairman Bennett presented the Bill's List dated October 13, 1993, which includes \$145,810.53 of General Fund payments, \$3,904.98 of State Highway Aid payments, and \$5,340.90 of Escrow Fund payments, for a grand total of \$155,056.41.

Supervisor Fox questioned the bill in the amount of \$24,286.00 to the Pennsylvania Municipal Retirement System for PMRS Foreign Casualty. Mr. Horrocks explained Hilltown Township does not retain any money for pension plans, be it police or non-uniform. When funds are received from the State for pensions, the monies are immediately returned, along with the minimum obligation from the municipality to pay for both pension plans. No money was held this year, except for a two week period in which State funds were received in the amount of \$92,300.00, and then paid out two weeks

later in the amount of \$112,900.00.

Supervisor Bennington believes thought should be given to alternatives for tax collection due to the confidentiality problem recently experienced by Berkheimer with school board members. Mr. Horrocks believes the confidentiality problem Supervisor Bennington is speaking of is an allegation. Supervisor Bennington agreed, however since it is something that is being investigated, he believes the matter should be looked into. Several years ago, Chairman Bennett noted, the Township looked into the possibility of collecting the taxes, however it was determined that it could not be done as cost effectively as Berkheimer can collect it. Chairman Bennett believes Berkheimer represents most all the school districts in eastern Pennsylvania.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the Bill's List dated October 13, 1993, 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 October 25, 1993:

General Fund Checking Account	\$ 65,431.82
Payroll Checking Account	\$ 295.45
Fire Fund Checking Account	\$ 110,957.89
Debt Service Investment Checking Account	\$ 127,358.59
State Highway Aid Checking Account	\$ 151,229.04
Escrow Checking Account	\$ 184,917.94

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the Treasurer's Report dated October 25, 1993, subject to audit.

D. RESIDENT'S COMMENTS ON CONFIRMED APPOINTMENTS ONLY: None.

E. CONFIRMED APPOINTMENTS:

1. Ms. Carol Cope and Mr. Joseph Cupchak - Centennial Ridge
- Cancelled.

2. Mr. Samuel Pierce - Friends of the Pierce Library - Mr. Pierce is in attendance on behalf of the Friends of the Pierce Library. Statistics are largely the same as last year, with Hilltown Township residents comprising approximately 35% of the book borrowing public of the Pierce Library. The one year lease by the Friends of the Pierce Library for use of the former municipal building in Blooming Glen is about to expire. Mr. Pierce explained the volunteers who work the Thrift Shop have raised

hundreds of thousands of dollars to the funds available to the library for the purchase of books and other materials. Mr. Pierce stated he is now 90 years old, and while he was active in the business world, he was always searching for labor saving devices and ways to cut costs. Mr. Pierce requested the Supervisors agree to a five year lease, instead of a one year lease.

Although Mr. Pierce is very eloquent and persuasive in his argument, Chairman Bennett explained during the past few months, the Township Manager is becoming more and more concerned about the probable cost for maintaining the former municipal building in the near future. This Saturday, along with the normal road inspection, the Supervisors and the Township Manager intend to spend some time inspecting the former municipal building. Roof repairs and stone repointing may be required, at an approximate cost of \$50,000.00 to \$100,000.00 to maintain. Chairman Bennett would agree to another one year lease, until the building has been thoroughly inspected, and the Board agreed.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to extend the lease of the former municipal building to the Friends of the Pierce Library for their Thrift Shop operation for one year.

3. Mr. Richard Thornton - Holding Tanks - Mr. Thornton thanked the Supervisors for hearing his plea to allow his holding tank to remain where it presently is. It is Mr. Thornton's understanding that the holding tank is located within the ultimate right-of-way. Originally, it was not intended to be placed there, however the proposed location was solid rock, and it was not possible to get down deep enough to install the holding tank. A permit was obtained from the Bucks County Board of Health, who were made aware that the holding tank could not be installed at the originally proposed location. Mr. Thornton then asked if the holding tank location could be relocated, which the Bucks County Board of Health agreed to. Mr. Thornton was not aware that approval was needed from the Township first, and therefore installed the tank, after having it approved by the Bucks County Board of Health. Mr. Thornton commented if, for any reason, the holding tank must be moved in the future, he will be happy to move it at his own expense. To move the tank now would create a financial burden for the applicant.

Mr. Thornton understands there is a question as to whether the holding tank will be pumped from the highway, and he wished to assure the Board he would not allow that to happen. The holding tank will only be pumped from on-site.

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Mr. Wynn advised this is the property located just north of Reliance Road, on the opposite side of the street, north of B & S Auto. The site is the former Mabel Clark property, which experienced roof and foundation problems in the past. Mr. Thornton had to demolish the existing building, thereby constructing a new building on the same footprint. Mr. Wynn presented the original parking area plan reviewed by both the Planning Commission and the Board of Supervisors. This plan also identified the location of the holding tank to the northern corner at the front of the building. Mr. Wynn pointed out where the holding tank was actually installed, inside the ultimate right-of-way. Mr. Wynn alerted Mr. Applegate, Code Enforcement Officer, of the holding tank location, which is what prompted notification to Mr. Thornton.

In the past week, Mr. Wynn believes the Township Solicitor received an executed holding tank agreement, though it did not address concerns of the tank being located within the ultimate right-of-way. Mr. Wynn feels it is unnecessary to remove the holding tank at this time, provided it would be removed at the cost of the applicant in the event it is ever necessary or required by PennDot. Mr. Wynn doubts it will be necessary in the near future because there are no plans to do any major roadway widening on Bethlehem Pike.

Another concern Mr. Wynn addressed to Mr. Applegate is that due to the location of the holding tank, it is now convenient for a hauler to pump the tank from Bethlehem Pike, rather than from on-site. These two issues have been addressed by Mr. Thornton, however Mr. Wynn feels if they are acceptable to the Board, the Holding Tank Agreement should be amended to reflect those changes. If required by the Township, the amendment could state that the holding tank could be relocated within a certain number of days at the cost of the applicant, further clarifying that the tank would be pumped from on-site, rather than from the roadway. Mr. Wynn does not feel it is necessary to require the applicant to relocate the tank, or to suffer the expense of the relocation at this time.

Chairman Bennett asked the size of the tank. Mr. Thornton replied it is a 2,000 gallon tank, and would require pumping when it is approximately three quarters full. Supervisor Fox asked if PennDot keeps records of anything installed or constructed within their right-of-way. Mr. Wynn replied the tank is not located within their right-of-way, it is located within the ultimate right-of-way. Supervisor Bennington suggested the amendment to the agreement include provisions in the event the site is ever sold. Ms. Eberle stated the Township might want to include provisions requiring the applicant or the subsequent property owner to indemnify either the Township or PennDot for any damages which may result from the holding tank being located within the ultimate right-of-way.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to allow Mr. Thornton's holding tank to remain with the ultimate right-of-way, until such time as the roadway is widened or some other requirement might necessitate it's relocation, and to require an amendment to the Holding Tank Agreement with Hilltown Township.

F. MANAGER'S REPORT - Mr. Bruce Horrocks, Township Manager -

1. Mr. Horrocks presented eight escrow releases for the Board's approval, seven of which are bank held letters of credit, and one of which is Township held funds:

BFI	Voucher #17	\$	1,246.65
Cefelli	Voucher #15	\$	128.25
Country Roads Phase I	Voucher #19	\$	1,997.10
Country Roads Phase I	Voucher #20	\$	11,668.50
Deerfield	Voucher #1A	\$	442.25
Pleasant Meadows III	Voucher #29	\$	1,245.90
Pleasant Meadows III	Voucher #30	\$	11,484.00
Sterling Knoll Phase II	Voucher #55	\$	336.60

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

2. Mr. Horrocks requested a requisition for release from the Bond Issue, continuing with a motion that the Board had previously approved for Parks/Capital Projects. Through 1993, an outstanding amount of \$38,563.26 has been paid from the General Fund for parks. Mr. Horrocks is requesting a motion to requisition \$38,563.26 from the Bond Issue to cover that cost back into the General Fund. Mr. Horrocks noted this is the fourth requisition from the Bond in 1993, the first being the paving of the basketball court in Blooming Glen, the second being the Tot Lot in Blooming Glen, and the third for the purchase of the 16 ft. lawn mower the Township is now utilizing. Upon payment of the requested amount, Chairman Bennett asked the balance of the Bond Fund. Mr. Horrocks replied there would be a remaining balance of approximately \$155,000.00.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve release of funds from the Bond Issue for Park/Capital Projects improvements in the amount of \$38,563.26.

3. A year ago, the Board of Supervisors approved the expenditure of some Escrow monies given to the Township in lieu of certain public roadway improvements, with Toth Brothers giving a sizable donation. The Board had previously approved those funds

to be utilized for local Township road improvement projects. One road improvement the Township has done recently is a 35 ft. mast arm and turning lane sign located on Rt. 113 on the northbound lane, at the intersection of Old Bethlehem Pike, at a cost of \$3,941.00. Mr. Horrocks is requesting a motion from the Board to pay for the installation of the mast arm and turning lane sign mentioned above with the Escrow funds.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to authorize payment for the installation of the mast arm and turning lane sign located on Rt. 113 on the northbound lane, between County Line Road and Old Bethlehem Pike, at a cost of \$3,941.00, with the contribution monies as specified above.

4. Mr. Horrocks requested a motion by the Board to obtain a temporary loan from the Escrow Account in the amount of \$50,000.00 to the General Fund. This loan will be repaid within four weeks. The reason for this request is because there is a large bi-annual payment due to Trustee's Insurance Fund for medical benefits due on November 1, 1993.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to grant a temporary loan from the Escrow Fund to the General Fund in the amount of \$50,000.00, as specified above.

***8:00PM - PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE REGARDING LOWERING THE SPEED LIMIT ON TOWNSHIP LINE ROAD.**

Chairman Bennett adjourned the October 15, 1993 regular meeting of the Hilltown Township Board of Supervisors at 8:15PM, and called the advertised Public Hearing to order. The Public Hearing is to consider the adoption of an Ordinance regarding lowering the speed limit on Township Line Road.

Mr. Horrocks read a section of the proposed Ordinance, which states "The operation of any motor vehicle in excess of 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, is hereby prohibited. The operation of any motor vehicle in excess of 45 m.p.h. on Township Line Road in Hilltown Township from it's intersection at Chalfont Road westward to it's terminus at Hilltown Pike is hereby prohibited". Mr. Horrocks explained the proposed Ordinance is reducing the speed to two different speeds along Township Line Road, matching New Britain Township's posted speed limits.

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Motion was made by Supervisor, seconded by Supervisor, 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.**

*The Public Hearing was adjourned and the regularly scheduled Board of Supervisors meeting of October 25, 1993 reconvened at 8:20PM.

G. MANAGER'S REPORT (Continued) -

5. Mr. Horrocks presented information concerning one of the two insurance carriers the Township currently retains, with regards to Public Officials and Law Enforcement Errors and Omissions Policies. This year, the agent presented the Township's insurance agent with a significant 50% increase to the Public Officials Errors and Omissions Policy. Without the Township's knowledge, the agent discovered an alternative with General Star Insurance, who is also very well rated. The Township's agent has strongly suggested that Hilltown Township consider the transfer and has advised that the law firm of Marshall, Dennehy will defend any claims against Hilltown Township, regardless of which insurance company is used. Mr. Horrocks is seeking the Board's approval to change to General Star Insurance, who in years past, wrote Hilltown Township's Errors and Omissions Policy over a minimum limit that Scottsdale originally wrote.

Chairman Bennett asked the actual dollar savings to Hilltown Township with regards to what was spent this year versus what is proposed for 1994. Mr. Horrocks replied the Public Officials Errors and Omissions policy from Scottsdale Insurance for 1994 would have increased from \$14,000.00 to over \$21,000.00. It also would have increased the deductible from \$5,000.00 to \$10,000.00. The General Star Law Enforcement Errors and Omissions policy, because their "track record" is better, was a slight decrease, with Scottsdale Insurance policy's cost at \$12,800.00 and General Star Insurance policy's cost at \$15,900.00. If both are combined, which the Township must do, we will save over \$8,600.00 over next year's cost by switching to General Star Insurance. The deductible will remain at \$5,000.00.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to allow the insurance agent to take Hilltown Township out of Scottsdale Insurance, and place them in General Star Insurance, for Errors and Omissions for both Law Enforcement and Public Officials policies for Hilltown Township.

6. On Friday, October 22, 1993, three advertised fuel bids were opened. Farm and Home Oil bid on all three items, and H.L. Garges bid on two of the three items. Farm and Home Oil was the low bidder in all three cases, with the following bids: Diesel Fuel - 68.2 cents per gallon, Heating Oil - 67.75 cents per gallon, and Premium Unleaded - 72.89 cents per gallon.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to award the bids for Highway Diesel Fuel at a bid of 68.2 cents per gallon exclusive of taxes, Heating Oil at a bid of 67.75 cents per gallon exclusive of taxes, and Premium Unleaded Gasoline (cardkey system) at a bid of 72.89 cents per gallon exclusive of taxes, to Farm and Home Oil Company.

H. CORRESPONDENCE -

1. A quarterly report has been received from Florence Ammon of Bunny's Animal Shelter, advising that as of September 30, 1993, the number of dogs remaining is 156.

2. Correspondence has been received from Mr. Dick Feindler of Telford Borough concerning Hilltown Township's request to consider a preliminary plan and cost estimate for sewerage the Hickory Street, Oak Street, and Northview Roads area. Telford Borough has given the information to their engineer, and will be requesting a meeting with Hilltown Township once the report is finished, in order to review the project. Chairman Bennett asked how many homes are involved. Mr. Horrocks believes there are 23 homes involved, though Mr. Wynn explained an exact number is not set, because some of the homes are multiple dwelling units.

I. SOLICITOR'S REPORT - Ms. Mary Eberle, Township Solicitor's Office -

1. Ms. Eberle asked the Board's consideration of a Water and Sewer Service Agreement with Telford Borough Authority. This matter originally came to the Board's attention as part of a compromise with Telford Borough Authority over a lawsuit they filed against the Township and the Hilltown Township Water and Sewer Authority. The issue in controversy is which Authority gets jurisdiction over the area known as Area I. The Supervisors considered this agreement at their Worksession meeting, and have also adopted the Ordinance which is required as part of the settlement. Basically, Ms. Eberle stated, the compromise provides that Telford Borough Authority will have the exclusive jurisdiction over water and sewer in Area I, with the exception of the Quiet Acres development, of which they are receiving compensation from the Hilltown Authority. The remainder of the contract provides that Telford Borough Authority will be able to establish rates and serve customers, and that the Township will cooperate in their

ability to do so.

Solicitor Eberle cited the minutes of the September 27, 1993 Board of Supervisor's meeting, that states Supervisor Fox has concerns with some of the language of the agreement, specifically with Paragraph 8, addressing Hilltown Township's cooperation with Telford Borough Authority in carrying out the intent of the Ordinance. Supervisor Fox does not wish for Solicitor Eberle to answer his concerns, as they were answered at the last meeting, though unsatisfactorily.

For the record, Supervisor Fox would like to state what he believes is happening and why it happened. Some time ago, Supervisor Fox advised, the Solicitor representing the Authority appeared before the Board of Supervisors, wishing to take over the Quiet Acres Mobile Home Park section of the Township for water service. Supervisor Fox was in agreement with this request, wishing the Hilltown Township Authority serviced the entire Township, however they do not. There are other agreements, and there are other Authorities serving that area. In the process, Supervisor Fox explained, Telford Borough Authority got the idea that Hilltown Township and the Hilltown Water and Sewer Authority were attempting to oust them from Area I, and in turn, sued Hilltown Township and it's Authority. Telford Borough Authority claimed they had exclusive right to that area, with a binding contract stating such. Supervisor Fox said so at that time, and there is no question, because the Judge agreed during those hearings.

During each of the hearings which took place over a matter of months, Telford Borough Authority, Hilltown Township Water and Sewer Authority, and Hilltown Township met in an attempt to reach a compromise. During the last agreement period, which took place on September 3, 1993, the Judge asked each of the three parties, as well as the Chairman of the Board of Supervisors, whether they could agree to a basic settlement. Without consulting with the other two members of this Board, Chairman Bennett consented and agreed. Supervisor Fox stated in that agreement, there were many things that were in the 1973 agreement giving Telford Borough Authority Area I for water and sewer service, except for the particular sections they had given to other Authorities. Supervisor Fox does not know how the following section of the 1973 agreement ever passed, which states "Hilltown Township agrees to grant and/or assign to the Telford Borough Authority, such corporate powers it possesses under the laws of the Commonwealth of Pennsylvania and/or enact such Ordinances that may be required to carry out the intent of this agreement." Basically, Supervisor Fox noted, when it comes to water and sewer, Hilltown Township is giving up their rights by passing an Ordinance allowing Telford Borough Authority to do what we do now. Supervisor Fox asked what rights the Board of Supervisors have, and

asked if the Board has the right to act under Act 537, which means if Telford Borough Authority decides to move their lines into another area, or move their lines completely, Hilltown Township will approve that. In the past, whether Telford Borough Authority wished to move or extend water/sewer lines, they approached Hilltown Township for approval. There is mandatory sewer connection enforcement in this Township, however Supervisor Fox noted there is not a mandated Water Ordinance. If Telford Borough Authority, who is angry with Hilltown Township, decided to do this, Hilltown Township would have no control whatsoever in Area I. Telford could then assess and enforce mandatory connection without Township approval.

Supervisor Fox advised Authorities were given a great deal of power under the Municipal Authorities Act. Authorities can now move their lines, though in the past they could not enforce mandatory connection without seeking approval from the Board of Supervisors. Supervisor Fox would concede if 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.

When this whole lawsuit began, Supervisor Fox explained the Board agreed to get a second legal opinion, thereby approaching the firm of Grim, Biehn, Thatcher and Helf. Mr. Helf reviewed the lawsuit and proposed agreement, however he did not have any information on what had transpired in the courts. For the record, Supervisor Fox presented a copy of the second opinion from Mr. Helf to be attached to the proposed agreement.

Supervisor Fox read several sections of Mr. Helf's second opinion, which follows: "Delegation of authority is broad to allow Telford Borough Authority to extend the water service system without prior Township approval, and may be sufficiently broad to allow Telford to extend the sewer service system without prior Township approval". Paragraph V of the Water and Sewer Agreement states "Telford Borough Authority shall provide for such water and sewer facilities as it deems reasonably necessary to provide public water and sewer service in Region I and Region A". Further in Mr. Helf's opinion "With the broad delegation of power in Paragraph 8 of the Water and Sewer Service Agreement, Telford has a very strong contractual argument that it should be the sole source of decision making on the expansion of the sewer and water service in it's exclusive regions. In our opinion, the contractual language of the Water and Sewer Agreement, and the language of the proposed Ordinance combined with the broad ability of a Township to delegate water and sewer matters to an Authority, effectively turns control of the expansion of the water system in the exclusive region to Telford Borough Authority. In our opinion, a combination of those elements also gives Telford sufficient leverage to pressure the

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Township to modify it's official sewer ban, to accommodate what Telford may consider reasonable provisions for growth in Region I of that Township, with the exclusive right to provide service and the financial incentive to add customers. With the broad powers to do so, Telford may be an instigating force to encourage unwanted development in the Township. Signing the Water and Sewer Agreement and related Ordinance, as written, leaves little doubt regarding the intent of the Township to give Telford broad authority in the designated areas for development of sewer and water facilities. Although it is impossible to predict with certainty the exact interpretation that a court would apply to the broad language in the Water and Sewer Service Agreement and related Ordinance, Telford would certainly have a strong argument that the intent to turn over decision making regarding the maintenance and the extension of the water system in the exclusionary region to the Authority. The Township may wish to clarify those issues now by more explicitly defining the delegation of powers to Telford, rather than leaving the issue open for further dispute because of open ended language cited above in the Service Agreement." Supervisor Fox noted part of Region I is located within the Rural Residential area and that Telford Borough Authority can go up to and across Fairhill Road.

Basically, Supervisor Fox stated, this was something the Township was not involved in, however the Water and Sewer Authority, looking at a good deal, decided to get involved. Unfortunately, the Township was sued because of the Authority's actions, and it is the Township's governing body giving up their rights under the Constitution, the Second Class Township Code, and the Municipalities Planning Code. In order for this to go through, the Hilltown Water and Sewer Authority, after paying a fee, will retain Quiet Acres.

At the last meeting, Supervisor Bennington made several comments and asked many questions of the Township Solicitor. When he asked Solicitor Grabowski if there would be a problem accepting the Agreement, Solicitor Grabowski replied no Township resident would be affected by this Ordinance by having a water line extended without the express approval of the present or future Board of Supervisors.

Upon review of Mr. Helf's legal opinion of the agreement, it appears the key point is that the Water and Sewer Agreement also repeats, in identical words in Paragraph 8, the provision of Paragraph 3 of the 1973 Agreement, broadly assigning powers to Telford and states that it replaces the 1973 Agreement. Therefore, Supervisor Bennington noted, it is the same statement found in the 1973 Agreement, with no changes. Mr. Helf's opinion also states "We can not express any opinion regarding the enforceability of the 1973 Agreement, or Telford's right to provide exclusive services

under that Agreement, because we have not heard the evidence presented by the parties in these issues, and have not had the opportunity to observe Judge Scott's reaction to the evidence presented during the proceedings". Supervisor Bennington believes that is a key point since Mr. Helf responded to a request for a second opinion, but he was not actually in the Judge's chamber to obtain the direction of the Judge. Supervisor Fox commented Supervisor Bennington did not read the entire second opinion supplied by Mr. Helf.

Solicitor Eberle stated she does not agree with Supervisor Fox's interpretation of the consequences of executing this contract. Solicitor Eberle does not want the record to read as it did at the close of Supervisor Fox's comments, because she does not want the minutes of this meeting to be used as an aid for interpretation of the contract or for someone in the future to think that if this is approved by the Supervisors, that the two other Board members believe that is what they were giving up when they signed this agreement. Supervisor Fox commented Solicitor Eberle will see by the other two Supervisor's votes, that they do not believe it. Supervisor Fox stated his opinions will be a matter of public record because it is his opinion and is fact.

Solicitor Eberle would like to make clear that prior to any vote on this agreement, the Township Solicitor's office is advising the entire Board of Supervisors that they are not giving up control over the expansion of sewers in any portion of the Township. Act 537 requires that any extensions of sewer lines must come before the Township Board of Supervisors and must be approved by that Board. In executing this agreement, the Hilltown Township Board of Supervisors are not giving up that right, and they are not allowing Telford Borough Authority to control the pace of sewer expansion in the Township.

With regards to water, Solicitor Eberle advised there are DER regulations for public water supply, which also includes a process by which the Board of Supervisors has input and approval. Furthermore, expansion of both water and sewer in this area is governed by development. Telford Borough Authority has, in the past, and will for any foreseeable period in the future, react to proposed developments which come to Hilltown Township because the Board has the right under the Municipalities Planning Code, to review those developments, require them to post escrow, and approve any agreement the developer may execute with Telford Borough Authority. Solicitor Eberle stressed that the Board of Supervisors will not be giving up their control over development or expansion of the water and sewer facilities in Area A by signing the proposed agreement.

As Supervisor Bennington had previously pointed out, the language in Section 8 of the proposed agreement was part of the 1973 agreement. Solicitor Eberle stated it is the Township Solicitor's recommendation that the proposed agreement between Telford Borough Authority and Hilltown Township helps to control those rights somewhat. As part of the settlement agreement, Solicitor Eberle explained, Telford Borough Authority specifically requested authority to have the Township enact a Mandatory Connection Ordinance for a water system. This request was rejected by the Township Solicitor's office. The Township has no intention of allowing Telford Borough Authority to control when and if a Mandatory Connection Ordinance is adopted.

Solicitor Eberle read Section 8 as follows: "Hilltown Township agrees to grant or assign to Telford Borough Authority such corporate powers as it possesses under the laws of the Commonwealth of Pennsylvania and/or enact such ordinances as may be required to carry out the intent of the agreement." The intent of the agreement was to allow Telford Borough Authority to be the exclusive provider of water and sewer services outside Quiet Acres in Area I. Solicitor Eberle assured the Board that the intent of the agreement is not to delegate zoning powers which can not be delegated under Pennsylvania law, nor is the intent to delegate the Board's ability to enact Mandatory Connection Ordinances. Solicitor Eberle noted if the Delaware River Basin Commission were to require enacting water conservation ordinances in Hilltown Township as a condition precedent to the continued operation of a water system, the Township will cooperate with Telford Borough Authority in complying with DRBC regulations by allowing that type of ordinance to be passed. If DER requires that a certain type of pipe be used in the construction of sewer lines within the Township, Solicitor Eberle noted the Township would be required to make developers comply with that agreement as well. That is the type of ordinances and agreements addressed and referred to by Section 8. Solicitor Eberle stated it is not a wholesale bargaining away of all the Township's powers for expansion or development in the Township, and the Township Solicitor's office would not recommend that type of agreement to this Board. Supervisor Fox commented the Township Solicitor's office already has recommended that type of agreement.

Supervisor Fox asked why the Solicitor uses such language, if it really has no bearing, and asked why Telford Borough Authority requested that the Township's corporate powers be turned over to them by Ordinance. Chairman Bennett asked what Supervisor Fox considers corporate powers. Supervisor Fox stated corporate powers are what the Supervisors swore to defend when they took the oath of office. Supervisor Fox noted the Board's corporate rights are the Second Class Township Code, the Municipalities Planning Code, plus a few other things.

Upon reading the minutes of the last meeting, Supervisor Fox commented Solicitor Grabowski had stated that Telford Borough Authority wanted the right, a mandate, to allow moving of water and sewer lines, and to require mandatory connection. Solicitor Grabowski also stated they would not give Telford Borough Authority that, yet they insisted on this proposal, which in Supervisor Fox's opinion, is the same thing. Supervisor Fox wondered why the Township would give Telford Borough Authority those rights if they have no meaning. Solicitor Eberle replied there has been a great deal of animosity between Telford Borough Authority and this Township and the Hilltown Water and Sewer Authority because of this problem. Telford Borough Authority is afraid that if they settle this lawsuit by entering into this agreement, giving them exclusive jurisdiction in Region I for water and sewer service, at some point, DRBC or DER may pose a requirement to the continued operation of that water or sewer system, by adoption of a certain ordinance for water conservation or for certain types of materials, Hilltown Township could say that nothing in this agreement requires us to do that and therefore, Telford Borough Authority is "out of business" in this Township. Due to animosity and ill feelings, Telford Borough Authority fears that the Township and the Authority will not give them the cooperation they need, which is why they want that paragraph included. Supervisor Fox noted no other Authority has those particular rights.

Supervisor Fox read the Impact of the 1973 Agreement, which states "Since paragraph 3 of the 1973 agreement and paragraph 8 of the Water and Sewer Service Agreement are identically worded, one could argue the Township gives up nothing by signing an agreement that contains the same language. Once again, we are at a disadvantage because we have not had an opportunity to observe Judge Scott's actions in this case. We do believe, however, that a court's willingness to construe broadly a delegation of authority, signed in 1993 with all present conditions known, could be much different from a court's willingness to construe broadly a provision signed 20 years ago when Hilltown Township was primarily farms and had no Hilltown Water and Sewer Authority. Identical language can be interpreted differently, depending on the surrounding circumstances."

To an extent, Solicitor Eberle agrees with Mr. Helf in that paragraph, though she believes it is a benefit to Hilltown Township that prior to entering into the 1973 Agreement, Telford Borough Authority did not specifically ask for a Mandatory Connection Ordinance. Telford Borough Authority, prior to entering into this agreement, specifically asked the Township for a provision which would allow a Mandatory Connection Ordinance, and were refused. If Telford Borough Authority ever comes back to the Township, saying that Section 8 gives them the right to enact a Mandatory Connection Ordinance, Hilltown Township can say no and can point

to the drafting history of this contract - to their original request for that paragraph and the Township's refusal, in any lawsuit they may bring. Solicitor Eberle stated Hilltown Township did not have that ability in the 1973 Agreement. Therefore, Solicitor Eberle believes the circumstances work in the Township's favor in this case. Supervisor Bennington asked if it was true that if the Board denies the proposed agreement this evening, the 1973 Agreement is then still considered to be in place, while maintaining that paragraph. Therefore the Township is still bound by the paragraph, whether the new proposed Agreement is accepted or denied. Solicitor Eberle replied that is correct, though Supervisor Fox said it has not been reinforced. Supervisor Fox also noted Telford Borough Authority was not angry at Hilltown during the time of the 1973 Agreement.

Motion was made by Supervisor Bennington, and seconded by Chairman Bennett, to adopt the Water and Sewer Agreement, as specified by Judge Scott. Supervisor Fox voted nay. Motion passed: 2:1.

Chairman Bennett commented he has complete confidence in the Township Solicitor's office who have been representing the Township for a number of years, and believes they are one of the best law firms with regards to municipal law within the County of Bucks.

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

1. Elysian Fields - Mr. Wynn advised the site located on Orchard Road, proposes 11 village house single-family dwellings, and 47 townhouses. The original plan received a preliminary approval by the Board of Supervisors at their meeting on July 9, 1990. The final plan was submitted on February 18, 1991, and subsequently withdrawn for consideration on July 17, 1991. More recently, the applicant re-submitted a final plan which was reviewed by the Township Planning Commission at their last meeting. The plan proposes extension of Yarrow Court, which is a roadway within the Pleasant Meadows development, and also proposes townhouse units with stub streets. On the preliminary plan, these roadways were proposed as private driveways and parking areas. The plan is proposed to be served by public water and sewer from the Hilltown Township Water and Sewer Authority. One of the issues discussed at the Planning Commission meeting is the revision made from the preliminary plan to the final plan, which revised the access to the townhouse units. On the preliminary plan, those sites noted as parcel A, B, C, and D, were 24 ft. wide driveways with parking areas. The final plan submitted, however showed 24 ft. wide access roads with private driveways on individual lots. Mr. Wynn prepared a review for the Planning Commission dated October 6, 1993, a copy of which has been forwarded to this Board, discussing this arrangement. There are a number of items within the Subdivision/Land Development Ordinance that the proposal

conflicts with, regarding the cartway width of a stub roadway or cul-de-sac street, the requirement for turnaround area, and a requirement that a cul-de-sac street may be public and can also be at least 250 ft. in length. There is also a requirement that stub streets should not be permitted unless they serve less than four dwelling units. All of the stub streets in this proposal will serve more than four dwelling units.

At the Planning Commission meeting, an action was taken to recommend approval of the final plan of subdivision to Elysian Fields. That approval, however, was conditioned upon a number of items, including parking and access areas. The Planning Commission recommended approval subject to the access and parking areas for the townhouse units being reverted back to the original preliminary plan approval of 1990, that being access driveways and common parking areas, thereby eliminating the garage units and the private driveways for the townhouse units. Mr. Wynn explained the final plan should be revised to reflect what was approved at the preliminary plan stage in 1990 with respect to access and parking for the townhouse units. The other outstanding items are all items which were conditions of preliminary plan approval. One of those conditions being that the open space area be offered for dedication to the Township, or proposed as a Homeowner's Association if not accepted by the Township.

In 1990, Mr. Wynn advised, the Hilltown Township Park and Recreation Board made a recommendation (#90-13) that the Township not accept the open space area. The Planning Commission has requested that the Park and Recreation Board reconsider their original recommendation. The Planning Commission is of the opinion that they would recommend whatever the Park and Recreation Board will recommend at this point. Mr. Wynn noted part of the open space area includes a pathway and landscaping area which really serves only these dwelling units, however there is another section of open space located along the stream near the Orchard Road bridge. Mr. Wynn advised that particular section of open space is between the open space owned by the Township in Orchard Station, and the open space owned by the Township within Pleasant Meadows. The addition of Elysian Field's open space area will make the entire open space area contiguous. At the time the Park and Recreation Board originally reviewed this plan, Mr. Wynn believes the Township did not yet own these open space pieces, and perhaps were not aware that this offering was "the last piece of the puzzle" for continuous open space.

Other outstanding items include approval by the Bucks County Conservation District for proposed erosion and sedimentation control measures, approval by the Hilltown Township Water and Sewer Authority for both sewer and water facilities, execution of an escrow agreement to guarantee all public improvements, execution

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of all rights-of-way and easements for lands to be dedicated to Hilltown Township, completion of all final drafting and plan details once the plans are revised back to the original parking lay-out, and payment of any outstanding legal or engineering costs the Township has incurred.

Chairman Bennett noted there was an existing building on the property and asked if it will remain. Mr. Wynn replied the dwelling will remain, but the barn will be demolished.

Mr. Wynn advised the applicant must obtain final plan approval this evening in order to attempt to get EDU's. Mr. Mike Raphael, developer of the site, stated there are only a limited amount of 168 EDU's available in the five municipality area. Mr. Wynn noted the Planning Commission recommended final plan approval, subject to the conditions he mentioned earlier.

Supervisor Bennington asked if the stub roads will be maintained and plowed by the homeowner's association. Mr. Wynn replied that is correct. The plan before the Board does not show it, because it has been revised, however Mr. Wynn pointed out the parking areas.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to grant conditional final plan approval to the Elysian Fields Subdivision, pending completion of those outstanding items as outlined above and to approach the Park and Recreation Board with regards to the open space area.

2. Wisler Subdivision - The Wisler Subdivision is located on Callowhill Road, just north of South Perkasio Road and is a two lot subdivision. Mr. Wynn explained the applicant's engineer, Strothers Associates, requested that the Township provide a letter to PennDot requesting review of a single family dwelling driveway on the State highway of Callowhill Road. The Township typically requires PennDot approval of the driveway as a condition of plan approval, however the applicant would like to speed up the process. PennDot, in the case of Hilltown Township, will not review a highway occupancy permit unless there is correspondence from the Township requesting such. That is because Hilltown Township is one of a handful of municipalities in Bucks County who requested that of PennDot some years ago. At this point, the Planning Commission made a recommendation to this Board to authorize and direct the Township Manager to send a letter to PennDot requesting review of the driveway permit.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to direct a letter be sent from the Township to PennDot, requesting them to review the highway occupancy permit for the Wisler Subdivision.

3. Crawford Act 537 Revision - At the last meeting, the Crawford Act 537 revision was reviewed and discussed by this Board. Mr. Wynn explained the proposal is a package treatment plant to be installed on Green Street, with discharge to the swale along Green Street. The Planning Commission recommended the Act 537 plan be approved, subject to two conditions. One condition was execution of a maintenance and operation agreement with escrow, which is typical for these types of systems. The second condition is that the effluent from the treatment facility be discharged into a underdrain constructed along Green Street, approximately 900 ft. in length, such that the discharge would not be a source of constant flow in the grass swale along Green Street. The Planning Commission further recommended that the cost of the underdrain be shared between the Township and the applicant, with the applicant paying the cost of materials, and the Township actually installing the material.

In response to discussion with the design engineer, Mr. Wynn's office has been provided with a cost estimate of material, labor, and equipment to construct the underdrain. The cost of materials was estimated at \$1,935.00 and both the cost of the underdrain, including labor, material and equipment was estimated at \$3,695.00. Correspondence further stated that Mr. Crawford was willing to pay for the cost of the underdrain pipe itself, which is \$925.00 or approximately 25% of the total project cost. Mr. Wynn reviewed the cost estimate, and felt there will be some additional cost for erosion and sedimentation control, as well as a cost of seeding and mulching that may be necessary, due to some disturbance of the swale. Mr. Wynn also met with Mr. Tom Buzby, Director of Public Works, at the site to review the project. Based upon Mr. Wynn's cost estimate, materials will be approximately \$2,185.00. Mr. Wynn recommends the Board either approve the Crawford Act 537 plan with the condition that a cash escrow in the amount of \$2,500.00 be established to provide for the material costs to construct the underdrain, therefore providing for the materials only, or approve the Act 537 plan subject to the entire cost of labor, equipment, and materials being escrowed by the applicant. The Planning Commission has recommended that the applicant pay for approximately half the cost, or at the very least, the cost of materials. The agreement has been prepared, however Solicitor Grabowski needs some direction as to what type of language to include. Basically, Mr. Wynn noted the work would not be done unless or until a building permit was applied for by the applicant.

Mr. Wynn advised there is some benefit to the Township by installing the underdrain, however if this project was not proposed, the Township would not realistically be doing this work. However, there is a benefit to the overall drainage along the roadway by installing the underdrain, which is why Mr. Wynn believes the Planning Commission suggested the Township install the

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material. If there were no benefit to the Township, the applicant would certainly be responsible for all costs, including the installation.

Supervisor Bennington stated the Township is benevolent in providing the labor as long as the individual provides the materials, yet Mr. Crawford is offering to pay only 25% of the total estimated cost of the project. At this time, Supervisor Bennington believes the applicant should be responsible for the entire escrow to cover the project, since he does not foresee Hilltown Township getting any satisfaction from the applicant. Chairman Bennett agreed, and suggested the applicant should also pay the entire cost of materials, not just 25%.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to direct the applicant for the Crawford Act 537 Revision to be responsible for the entire escrow to cover the project, thereby paying for all materials, with the labor being done by the Township Public Works Department.

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

1. Pleasant Meadows Box Culvert - Mr. Wynn advised the Pleasant Meadows Box Culvert work is proceeding, with the wingwalls and concrete aprons completed on both the upstream and downstream side of the box. The area of wetlands has been constructed and graded. A complaint was received from a neighboring resident due to several large trees being removed in order to comply with the Army Corp. of Engineers requirements to construct wetlands. The wetland area is to be planted within the week. Mr. Wynn has been advised by the developer that the wetland plants will be planted by a landscaper at a cost of \$12,000.00 after the wetland area has been stabilized.

2. Reliance Road/Bethlehem Pike Traffic Signal - Mr. Wynn advised there has been no further progress at the site during the past few weeks. The foundations and the sensors have been installed, however the contractor is awaiting delivery of the mast arms. Once the mast arms are delivered, the traffic light will be erected rather quickly.

3. Off-the-Wall Cabinetry - A request from Off-the-Wall Cabinetry was received this past Friday, October 22, 1993. The site is located on Bethlehem Pike, immediately north of the Garges Carwash. The proposal was originally an expansion and addition to their building, requiring reconstruction of the retention basin, installation of some parking area and landscaping. The Land Development Agreement executed between Off-the-Wall and Hilltown Township, required all improvements to be installed by the end of this month. To date, all public improvements have been installed,

with the exception of the landscaping. Parking lot trees and the buffer yard has not yet been installed. Off-the-Wall is requesting that those items be installed in the spring of 1994. There are also some site improvements which have not been completed, though conditions of occupancy permit specified they be completed within 90 days. Further, the applicant is requesting that these site improvements not be required within 90 days, including final paving of the parking area, which the applicant is requesting not be paved at this time because the parking area is located between 6 and 10 ft. of fill. The applicant is concerned with some minor settlement which could cause cracking. The applicant has also asked that striping of the parking lot not be done at this time, and that the concrete bumper not be required until the parking lot is paved. The applicant is seeking authorization for the Board to permit the work be accomplished within 18 months, as opposed to the 90 day time period. Off-the-Wall Cabinetry has noted that the erosion and sedimentation controls will remain in place until the site is completely stabilized.

Under the circumstances, Mr. Wynn is in agreement with these requests since there is an escrow guaranteeing not only the public improvements and the buffer trees, but also private improvements for the parking lot, including bumpers and line striping. During this time, the escrow will remain in place. Due to the time of year, Chairman Bennett can understand the delay in completion, however he asked why the applicant is requesting more than 12 months to complete the work. Mr. Wynn replied, during construction of the front portion of the building, the parking area was on quite a bit of fill. The applicant immediately paved the parking after the building was erected. Following that paving, the applicant experienced a great deal of cracking in the parking lot from a large amount of settlement. Off-the-Wall would like to avoid that same situation in the other area of the parking lot, which is why he is requesting an 18 month time period in which to do so. If this is acceptable to the Board, 18 months happens to be when the maintenance period will begin.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously that an 18 month extension for completion of improvements, other than the installation of buffer trees for the Off-the-Wall Land Development be accepted from a standpoint of commencing the 18 month maintenance period on the site. Also, buffer yard trees, pursuant to the applicant's correspondence dated October 18, 1993, should be installed in the spring of 1994 and that other items which are private improvements, including the final paving of the parking lot, installation of bumper stops, and line striping be completed prior to the end of the 18 month maintenance period, with the escrow for those items being retained until completion.

Mr. Wynn noted the escrow agreement is not a letter of credit, but rather funds deposited and earmarked for Hilltown Township being held by Bucks County Bank, which can not be released until authorization is received from the Township.

L. RESIDENT'S COMMENTS:

1. Mr. Frank Beck, a representative of the Hilltown Township Water and Sewer Authority, thanked the Supervisors for their support and patience with regards to the Telford Borough Authority lawsuit which was discussed earlier.

2. Mr. William Godek asked the status of the proposed amendment to the quarry agreement with H & K Quarry. Mr. Horrocks replied no signatures have been received from either H & K Quarry or Hilltown Township as of this point. One item remains to be resolved. Mr. Horrocks expects to have the agreement in hand by the November 8, 1993 Worksession meeting. Mr. Godek asked what the remaining item to be resolved entails. Mr. Horrocks replied the outstanding issue to be discussed and resolved is the covering of trucks. Mr. Godek asked if there is an additional issue being negotiated with H & K Quarry at this time. Chairman Bennett replied the Board had some question as to whether or not the amended agreement should in fact incorporate anything other than what was advertised for the Public Hearing, which was the relocation of the concrete batching plant. Other issues arose at that meeting, including the covering of trucks which was referred to by a number of residents. Mr. Horrocks is now working with H & K in order to find a solution to the matter.

Also, with regards to the speed limit study on Broad Street, Mr. Godek asked if that will commence in the near future. Chief Egly replied the speed study is scheduled to be conducted on Friday, October 29, 1993.

3. Chief George Egly introduced Mr. James Siegfried, a criminal justice major enrolled at Penn State's Ogantz campus. Mr. Siegfried would like to do an internship with Hilltown Township Police Department from January 10, 1994 through April 8, 1994. Chief Egly explained Mr. Siegfried would participate in all activities of the police department.

Chief Egly is seeking the Board's authorization to allow Mr. Siegfried to do his internship with the Hilltown Township Police Department.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize Mr. James Siegfried to conduct his internship with the Hilltown Township Police Department from January 10, 1994 through April 8, 1994.

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4. Mr. John Snyder thanked the Hilltown Police Department, and specifically Sgt. Ashby Watts, for submitting his name to the State for the award he received this month. Also, Mr. Snyder thanked the Board of Supervisors for their continued support of the police department and the D.A.R.E. program. Mr. Snyder mentioned the informative article placed in the News Herald concerning the award and the McGruff program in Hilltown Township. Chairman Bennett congratulated Mr. Snyder on winning the award.

M. SUPERVISOR'S COMMENTS:

1. Supervisor Bennington does not normally respond to Letters to the Editor in the News Herald, however he felt compelled to mention a recently published letter from Mr. Paul Bardman of West Rockhill Township. Supervisor Bennington read the letter, which follows:

"Dear Editor,

This is addressed to Hilltown taxpayers. You are being ripped off by your own Supervisor's ordinances. The \$50.00 Contractor License fee is costing you money. It costs the Township \$30.00 to \$40.00 to process this license, and \$30.00 to \$40.00 for the contractor to process it. The taxpayers collect a \$50.00 fee, but really only get \$20.00. When you call in a plumber, he has to charge you a fee of \$50.00, plus \$30.00 for his overhead. You as a taxpayer receive \$20.00, and pay \$80.00 out as a consumer. As an intelligent politician once said 'Voters get what they deserve'."

Supervisor Bennington advised the \$50.00 Contractor License fee is to cover the entire year that it is paid in by the contractor. Contractor Licenses are valid from January 1st through December 31st of any calendar year. The intent and purpose of the Contractor License was to protect the residents of Hilltown Township from being "ripped off" by non-insured contractors who do shoddy work within the Township. Supervisor Bennington does not understand Mr. Bardman's reasoning, and wished to set the record straight on the subject of Contractor Licenses.

2. Chairman Bennett announced Candidate's Night, sponsored by the Hilltown Civic Association, will be held on Tuesday, October 26, 1993, here at the Township building beginning at 7:30PM. This meeting is being held to introduce the candidates for the various Township and County offices.

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

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O. ADJOURNMENT: Upon motion by Chairman Bennett, and carried unanimously, the October 25, 1993 Hilltown Township Board of Supervisor's meeting was adjourned at 9:40PM.

Respectfully submitted,



Lynda Seimes
Township Secretary

(*These minutes were transcribed from notes and recordings taken by Mr. Bruce Horrocks, Township Manager).