

HILLTOWN TOWNSHIP BOARD OF SUPERVISORS  
REGULARLY SCHEDULED PUBLIC MEETING  
Monday, May 24, 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

Chairman Bennett introduced the members of the Board, the Township Manager, and the Township Solicitor.

A. APPROVAL OF MINUTES:

Action on the minutes of the April 26, 1993 Board of Supervisor's Meeting:

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the April 26, 1993 Supervisor's meeting, as written.

Action on the minutes of the May 10, 1993 Board of Supervisor's Worksession Meeting:

Supervisor Fox noted corrections on pages 10 and 11 with regards to assumptions made by Mr. Lawrence Otter. Supervisor Fox advised there was no agreement made at that time, nor has there been an agreement reached at present.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the May 10, 1993 Supervisor's Worksession meeting, as corrected.

B. APPROVAL OF CURRENT BILLING - Chairman Bennett presented two Bill's Lists for approval this evening:

The first Bill's List is dated April 29, 1993, and includes State Highway Aid payments in the amount of \$2,414.48, Escrow Fund payments in the amount of \$4765.83, for a grand total of all funds in the amount of \$135,320.59. Supervisor Fox questioned the bill in the amount of \$74,676.00 from Trustees Insurance Fund. Mr. Horrocks explained that is a six month premium payment for medical coverage. Supervisor Bennington questioned the refund for the Baltimore trip in the amount of \$58.00, and asked if there were now two more seats available for that outing. Mr. Horrocks advised the response to the Baltimore trip was so overwhelming that it was actually overbooked before we realized it, and the \$58.00 was the

1559  
Page 2  
Board of Supervisors  
May 24, 1993

return of payment for two seats which were overbooked.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the payment of bills due April 29, 1993, subject to audit.

The second Bill's List is dated May 12, 1993, and includes State Highway Aid payments in the amount of \$1,985.38, for a grand total of all funds in the amount of \$99,293.57. Supervisor Fox questioned the bill in the amount of \$1,200.00 from Systems Innovations, Inc. for the calibration of Vascar units, and asked how frequently that must be done. Mr. Horrocks replied it is required by the State on a quarterly basis. Supervisor Fox noted the Township has paid \$50,000.00 towards the Tax Anticipation Note.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the payment of bills due May 12, 1993, subject to audit.

C. TREASURER'S REPORT - Mr. Bruce G. Horrocks, Township Manager - Mr. Horrocks presented the Treasurer's Report with the following balances as of May 24, 1993:

General Fund Checking	\$ 151,553.00
Payroll Checking	\$ 262.39
Fire Fund Checking	\$ 135,278.57
Debt Service Checking	\$ 170,495.31
State Highway Aid Checking	\$ 211,830.93
Escrow Fund Checking	\$ 124,173.48

Mr. Horrocks commented Hilltown Township will be paying approximately \$50,000.00 more to the Tax Anticipation Note next week, which will leave a remaining balance of \$50,000.00.

With regards to the Fire Fund, Supervisor Fox asked when distribution of funds will take place. Chairman Bennett replied distribution to the fire companies takes place on July 1st and December 1st. The reserve remains at \$50,000.00 at this time.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to accept the Treasurer's Report dated May 24, 1993, subject to audit.

Chairman Bennett announced the Supervisors and Township Manager met with the Township Solicitor prior to this meeting to discuss legal and personnel matters.

D. RESIDENT'S COMMENTS ON AGENDA ITEMS ONLY -

1. Mr. Nick Lupinacci noted there is a large crowd of

Page 3  
Board of Supervisors  
May 24, 1993

residents present this evening from the Skunk Hollow Road - Callowhill Road area with concerns about the Gro-N-Sell plan. With the amount of residents present this evening, Chairman Bennett advised debate concerning Gro-N-Sell will be limited to one hour, with each concerned individual given five minutes to state their opinion.

Mr. Lupinacci is not opposed to a greenhouse operation or agricultural business anywhere in Hilltown Township. As has been brought out during other meetings, Mr. Lupinacci believes this is the wave of the future. Farmers, as we know them, are somewhat a thing of the past. Mr. Lupinacci supports any one who wants to keep agriculture in Bucks County. However, that is about as much as he agrees with the proposed Gro-N-Sell operation. Mr. Lupinacci feels it is a good idea proposed in a bad location, and his number one concern is the water usage.

In 1989, Gro-N-Sell originally came into our community with an interest in locating on Callowhill Road. The owner of the business was kind enough to schedule a meeting with the area residents, after realizing there was a great amount of concern over different issues. At that meeting at the Remax office in Dublin, Mr. Eastburn made an attempt to calm neighboring residents fears by advising that water usage would be limited to 700-750 gallons of water per day. In fact, Mr. Eastburn stated, a thimble full of water would be utilized to feed his plants on a daily basis. Therefore, the resident's concerns about a large consumption of water appeared to be unfounded because Mr. Eastburn's process apparently eliminated large amounts of water usage.

Also, just prior to 1989, there was a 20 home subdivision proposed next to Mr. Eastburn's property. Through planning and zoning, the number of homes was reduced from 20 homes to 6 homes, due to lack of water. Mr. Lupinacci questions whether Mr. Eastburn knew, back in 1989, what he was speaking of concerning the water issue. Most residents felt he was an expert, and believed the figure he had given them for water usage was accurate, only to find that over the past several years, water usage estimates have gone from 750 gallons per day to 2,200 gallons per day, and are now up to 4,500 gallons per day. Mr. Lupinacci has nursed his own well ever since he has lived in Hilltown Township, yet on two occasions this past spring, he has run out of water. Mr. Lupinacci realizes he will be needing a new well. At present he has a 270+ ft. well, and he will most likely need one deeper than that. Mr. Lupinacci has not increased the usage of his well whatsoever, and yet over last year, he is now at more of a deficit.

Mr. Lupinacci presented a diagram showing some other rather large users of water in the area, in proximity to the Gro-N-Sell site. Within a mile radius of the proposed Gro-N-Sell site, there is a

quarry which pumps out numerous gallons of water per day. There are also approximately 60 greenhouses located on Upper Stump Road and Callowhill Road which pump out an unspecified amount of water. These two issues were not brought into the calculation. Mr. Lupinacci presented photographs for the Supervisors to review as other residents speak out against this project. The photographs give a clear picture of the greenhouses and nurseries presently located in the area.

Mr. David McDowell, a resident of Stump Road, wished to give his five minute speaking time limit to Mr. Lupinacci, in order for him to complete his presentation. Mr. Lupinacci continued, explaining the photographs he has supplied basically show the relationship between Gro-N-Sell and the quarry. From what he understands of the Ordinance, there is not to be any consideration for quarrying operations, but it also states that there needs to be consideration for any large user of water, a category which Gro-N-Sell certainly falls into.

Another issue concerns a family who has operated a greenhouse in an adjoining municipality for a number of years. Mr. Lupinacci is not sure of what that operation uses in water consumption for the greenhouse, however from viewing the project, he believes the usage must be over 10,000 gallons per day. Mr. Lupinacci believes there should have been consideration given to that site in the water study which was done for the Gro-N-Sell site this past February.

In addition, Mr. Lupinacci stated there are supposed to be tests performed on all wells, whether active or proposed, within a quarter mile radius of the property. There are a number of wells which have been completely overlooked because construction on any given site may not have begun before the time of the water study. Mr. Lupinacci wondered why his well, and others in the area, experienced an incredible spike in usage on the 34th day. It was suggested in a previous Planning Commission meeting, that those wells must have been in use at that time. Mr. Lupinacci stated there was no water usage from his well on that 34th day, as he and his wife were away from home that day. From reviewing the water study, it appears that there was a larger quantity of water pumped at that time, yet in fact he believes it must have had some sort of impact on his particular well.

Mr. Lupinacci feels that if this project is going to have such an impact on the surrounding wells in that community, there should be allowances for the users already in existence. On the diagram he presented, Mr. Lupinacci noted a nursery presently located at Broad Street and Callowhill Road, although he does not know how much water usage they experience. There is also a nursery located at Upper Church Road and Broad Street, newly created within the last few years. Again, Mr. Lupinacci does not know the amount of water

used. At Stump Road and Upper Church Road, there are two nurseries including an orchard which has been there for several years. This orchard goes through the process of making apple cider, and therefore would certainly be a major water user. Across the street in New Britain Township, there is another nursery where trees and vegetables are grown. Mr. Lupinacci is sure there is some sort of irrigation process involved at this site. There are also greenhouses located at Upper Stump Road and Callowhill Road which have been in existence for many years. Mr. Lupinacci believes all these greenhouses and nurseries in the area need to be taken into consideration when reviewing the Gro-N-Sell proposal. Mr. Lupinacci would support the Board of Supervisors in a denial of the Gro-N-Sell project.

2. Mr. Tony Michetti has recently sent correspondence to the Board of Supervisors stating his concerns and opposition to the Gro-N-Sell project. If Mr. Michetti's letters have become a nuisance to the Board, he wished to assure the Supervisors that the nuisance of his letters is nothing compared to the nuisance that he and neighboring residents will face if Gro-N-Sell is approved.

Mr. Michetti believes there are many reasons why this project should be denied. The purpose of the land planning ordinance is to protect the health, safety, and welfare of the residents of Hilltown Township. That empowers each of the Board members, regardless of whether a use may be permitted under zoning, to control or if necessary, to deny, a particular permitted use. In this case, residents of this area have been asked to accept the burdens of increased chemical usage, increased traffic, and light pollution. Mr. Michetti asked the Supervisors to think about what it will be like to have 24 hour grow lights virtually in your back yard. Mr. Michetti wondered if any one has asked for a light impact study or a traffic impact study, which could be done.

In addition to all these other nuisances and hazards he and his neighbors will face, Mr. Michetti commented they are also faced with a proposed water usage of 4,500 gallons per day. As Mr. Lupinacci pointed out, back in 1989 when Mr. Eastburn appeared before the Zoning Hearing Board, he assured them the water usage would be approximately 700 - 750 gallons per day. At present, the water usage will be almost seven times what had originally been proposed in 1989. Mr. Michetti suggested that under the land planning ordinance of this Township, Mr. Eastburn must show that he complies with zoning requirements. Mr. Michetti looks upon the 1989 Zoning Hearing Board decision as though it were almost a variance granted to Mr. Eastburn. Using that analogy, Mr. Michetti believes Mr. Eastburn should be bound by the specifications and plans that he presented in 1989. If Mr. Eastburn cannot construct this project, utilizing a maximum of 750 gallons of water per day, as he had originally proposed, he should not be allowed to proceed now. Mr. Michetti does not believe that Mr. Eastburn is

demonstrating compliance with zoning, because when the Zoning Hearing Board granted this use as an agriculturally intensive use, it was based upon the plans and specifications that Mr. Eastburn presented at that time. Mr. Michetti understands that the Board of Supervisors may not be particularly persuaded by reasons of health, welfare, and safety, although frankly he believes that this project is overburdened and overwhelmed by the dangers it presents to the residents. Mr. Michetti feels the Board has the power to control even permitted uses if they affect the health, safety and welfare of the residents of Hilltown Township.

Mr. Michetti wished to review the Ordinance sections which he feels are of particular importance. The land planning ordinance act of Hilltown Township, Section 512 requires that Mr. Eastburn present the Supervisors with a water assessment study. This falls under the Board's jurisdiction, and since it is an agricultural use, therefore falls under the provisions of this section of the ordinance. It states that the purpose of this study will be to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the additional water withdrawals on existing nearby wells, underlying aquifers and streams. Mr. Michetti stated this is a two pronged survey. The first prong of the survey is to determine whether or not Mr. Eastburn's land will provide sufficient water for the project. The second prong is to determine whether or not his use of the land will affect the area around his site. The next section of the land planning ordinance, states "A water system which does not provide an adequate supply of water for the proposed use, considering both quality and quantity, adversely affects nearby wells and streams, or does not provide for adequate groundwater recharge considering withdrawals, shall not be approved by the Township." Mr. Michetti felt this was a very important provision because it gives the Board of Supervisors the power to control any use, whether or not it is permitted by zoning. (Ms. Patti Keller, a neighboring resident, wished to give Mr. Michetti her five minute speaking time limit, in order for him to complete his presentation.) Even though a use may be permitted by zoning, if it will adversely affect surrounding properties, or if there is not enough water on the property itself to support the use, the ordinance states the Township shall not approve the project. Mr. Michetti felt there was an affirmative duty on the Board's part to deny a project that cannot be supported by the water on the land itself, or if it adversely affects the lands surrounding it. The remainder of the ordinance speaks specifically to what the study must contain. After Mr. Michetti read this ordinance, and referred to the water study completed by INTEX, he came to the conclusion that Mr. Eastburn, through INTEX, has not met the requirements of the ordinance.

The water study conducted by INTEX was discussed. Mr. Michetti referred the Board to Subsection D, which states "Part of the

report which must be submitted, must locate all existing and proposed wells within a quarter mile of the site." In the INTEX study, only 15 wells were accounted for. Upon review of the map which is a part of the INTEX report, Mr. Michetti noted they take in a quarter mile site, using the well head as the area around which the quarter mile is drawn. Mr. Michetti referred to the INTEX report map, which have a quarter mile circle drawn around the proposed Gro-N-Sell site. Mr. Michetti stated the purpose of Subsection D is to account for all of the wells located a quarter mile around the site. What INTEX has done is drawn a quarter mile circle, of which approximately 1/3 of it is Mr. Eastburn's own land, 1/3 of it comprises the Garges tract, and 1/3 of it takes in homes located along Callowhill Road. Only those 15 homes were included in the quarter mile site. Mr. Michetti referred to Section 263 of the land planning ordinance which defines the word "site". It states "the site shall be defined as a parcel or parcels of land with the intent to one or more buildings, or intended to be subdivided into one or more lots". The site, therefore, as envisioned by Section 512 is the entire site, not just the well head, which is what INTEX has used. Mr. Michetti believes this to mean a quarter mile around the entire site should have been studied, to account for the existance of every well currently existing and those proposed. Mr. Michetti stated there are dozens of wells which fall into that category. The Gro-N-Sell land borders many homes along Broad Street and up Church Road, though not a single one of those wells is included in the water study. The Garges tract, which was subdivided into six residential lots before Mr. Eastburn ever appeared before the Zoning Hearing Board, was perk tested and approved for six septic systems. Mr. Michetti feels that it is pretty apparent that if it has been approved for residential development, there will be six wells proposed as well. Not a single one of the six lots of the Garges tract were included in the INTEX study. Mr. Michetti's house is right next door, and is not one of the 15 wells which were studied. (Mr. Jim Bagley, lot owner in the Garges tract, wished to give Mr. Michetti his five minute speaking limit to continue his presentation).

The second part of Subsection D states that "With all large withdrawal wells (10,000+ gallons), a study must take place within one mile of the site." Mr. Michetti advised there is a nursery containing 64 greenhouses located a bit more than a quarter mile from the Gro-N-Sell site. Mr. Michetti pointed out another nursery which is probably 400 ft. from the Eastburn property, and the quarry is located a half mile away from the Eastburn property. Subsection D states that all large withdrawal wells located within a mile of the site should be tested, however, the INTEX report states there are no large withdrawal wells within a mile of the site. There is no mention of the existance of the quarry in the INTEX report. Mr. Michetti noted that Mr. Eastburn has failed to

to meet the requirements of Subsection D alone. Mr. Michetti cited Subsection E, which speaks of the existence of septic systems. The applicant was required to do the same type of study, including those septic systems located a quarter mile around the site, not the well head. Each of the homes Mr. Michetti has referred to have septic systems, not just those fifteen which were studied. There are dozens of septic systems which are not accounted for in the INTEX report. Therefore, Mr. Eastburn has not complied with Subsection E either.

With regards to Subsection G which states "A discussion of the aquifers underlying the site and their long term draught re-charge capabilities based upon accepted published data or detailed site specific investigation". The INTEX report indicates that this area could be expected, in draught conditions, to recharge at a rate of 100,000 gallons per day. Yet Ms. Deemer of INTEX, at a Planning Commission meeting, indicated that the number of 100,000 was not based upon this specific site, but rather it is a general assessment of the area. At that meeting, Ms. Deemer stated that the numbers used are area-wide recharge numbers. They are not accurate for any one particular site, and they are not accurate for any one quarter mile radius area. Ms. Deemer uses 100,000 gallon per day recharge date, yet admits that is not accurate for that particular site. Mr. Fox, at the same Planning Commission meeting, accurately pointed out that in 1986, INTEX at the request of Hilltown Township, conducted a similar survey for an area close to this point, and determined recharge rates of between 53,000 gallons per day and 68,000 gallons per day. Mr. Michetti noted this is almost half of what Ms. Deemer has suggested the recharge is going to be now. Mr. Michetti commented INTEX has not even utilized their own 1986 specific site data, where they came up with recharge rates half of what they accounted for in the Gro-N-Sell Study.

Mr. Michetti mentioned Subsection H, which states "Based on the draught recharge capability of the underlying aquifer and the calculated daily groundwater withdrawals of the project, a hydrologic budget shall be calculated for the site property itself, and for the area within a quarter mile of the site." Again, Mr. Michetti noted, this is within a quarter mile of the entire site, not within a quarter mile of the well head, which is what INTEX used for their study. Mr. Michetti urged the Board of Supervisors to thoroughly read the report submitted by INTEX in order to see the inconsistencies for themselves. The next Subsection states "Based on the results of the hydrologic budget, a determination shall be made on whether or not the potential exists for a hydrological deficit." (Ms. Emma Thorn of Stump Road wished to give Mr. Michetti her five minute speaking limit in order to continue his report). The report by INTEX admits that there will be a deficit on their own property during dry draught conditions. Mr. Michetti felt that admission on their part reinforces the statement



Page 9  
Board of Supervisors  
May 24, 1993

that "the Township shall not approve any project which has an inadequate supply of water for the proposed use". Mr. Michetti believes this compels the Board of Supervisors to deny this project. INTEX' own expert admits that there will be a deficit in dry draught conditions, even though they attempted to "soft pedal" it by saying they expect that to occur mostly in the summertime when Gro-N-Sell will not be withdrawing 4,500 gallons at that time. Mr. Michetti asked if Mr. Eastburn will guarantee that the area will only experience dry and draught conditions in the summer months. Gro-N-Sell has admitted they will withdraw 4,500 gallons of water per day in the fall. Mr. Fox also accurately pointed out at the Planning Commission meeting, that the fall is the time period reknowned for low water table and poor recharge. Therefore, Mr. Eastburn is admitting that his own ground, in dry, draught periods, will not supply this use with enough water. INTEX has used the 100,000 recharge rate, as opposed to 53,000 to 68,000, and has used only 15 wells and septic systems in their study, even though there are dozens available.

Mr. Michetti read from the ordinance, page 100, second paragraph "The adequacy of water supply shall be determined, based upon the assumption that there are 3.5 persons per dwelling, using 75 gallons of water per person, per day." INTEX did do that, and then with those limited 15 wells which they included in their study, they stated 80% of the water that those 3.5 people will use, are going to go back into the aquifer. Therefore, INTEX gave themselves 80% back. Mr. Michetti noted the ordinance does not provide for that. The ordinance very specifically says that this survey is to be done based upon 75 gallons of water per day, for 3.5 people. It does not say that you may take back 80% which may go back into the aquifer. The purpose here, Mr. Michetti believes, is to err on the side of being conservative. That is not recharge in the typical sense of the word. When taking water out, the purpose of the study is to determine whether natural conditions will recharge the water. Mr. Michetti stated what is frightening about this is that even though INTEX has failed to comply with the Township's ordinance, and even though they give themselves the benefit of every possible interpretation, they still say there will be a deficit on Mr. Eastburn's property.

Mr. Michetti suggested that the Gro-N-Sell project should be denied on the basis that Mr. Eastburn has not complied with Hilltown Township's ordinance. Even if the Board accepts the INTEX report at face value, the Supervisors are compelled to deny this project.

3. Mr. John Trapp, who lives on Callowhill Road, is concerned about the Gro-N-Sell proposal. For the past ten years, Mr. Trapp has been employed by Peter Helberg Company greenhouses located in Chalfont. Mr. Trapp supplied a list of the water usage for the last year. During the first quarter of the last year, his

firm consumed 4,044 gallons per day, during the second quarter, his firm consumed 5,088 gallons per day, during the third quarter, which was in the summer months, water consumption jumped to 10,577 gallons of water per day, and the fourth quarter fell back to 5,752 gallons per day. Mr. Trapp felt this type of information is relevant to this project. He sympathizes with Mr. Eastburn's plight, however there are obviously many objections to the project. Mr. Trapp is sure that if he was not in an established greenhouse already, he might be in a similar situation. Mr. Trapp stated it is a shame that this has to happen, but unfortunately the land Mr. Eastburn selected to construct his greenhouse is already undergoing substantial water drain.

Mr. Trapp explained when water is put on a plant, it goes through transpiration and enters the atmosphere, and the only way it can be retrieved is if it happens to rain on that particular plot of ground. There are several water conservation methods that Mr. Eastburn might be contemplating, such as an ebb and flow system where most of the water can be contained with pot usage. Mr. Eastburn is in the plug growing business and Mr. Trapp is not sure if ebb and flow would apply to his usage. Giving Mr. Eastburn the benefit of the doubt, Mr. Trapp believes he will undertake some type of conservation methods knowing that he does not want to run out of water any more than the rest of the neighbors do. There may be some pros to the cons that have been presented this evening, and Mr. Trapp would be anxious to hear Mr. Eastburn's proposal. Supervisor Bennington asked Mr. Trapp to point out the location of his greenhouses. For ten years, Mr. Trapp worked at greenhouses which have been shown on the map. That business had it's own well, and consisted of 65 greenhouses, with most utilizing automatic watering systems. In a greenhouse operation, Mr. Trapp noted there is a lot of wasted water.

At his current place of employment, there is 100,000 sq. ft. of greenhouse space. Cut flowers are grown there, with most of them being grown in in-ground beds and with some being grown in raised beds. The plant canopy helps in evaporation from the beds, however approximately 40,000 snap dragons are grown on the beds. At times, Mr. Trapp waters those beds every other day.

One reason the figure for water usage is so high during the summer months is because some of that water is used for an evaporative cooling system to cool the greenhouses. This, in turn, also raises the humidity and helps to cut on transpiration, to lessen the use of water to a degree. Being a grower, Mr. Trapp felt he might offer some insight into the situation.

4. Mr. Richard Smith, who lives on the corner of Skunk Hollow Road and Callowhill Road, has attended previous meetings to voice his objection to the Gro-N-Sell plan. Mr. Smith has

Page 11  
Board of Supervisors  
May 24, 1993

experienced water problems similar to those spoken about earlier this evening. Mr. Smith has been able to pull his well down from 30 ft. down to 100 ft. in less than a 1/2 hour. Mr. Smith has a 3/4 horsepower pump and his well is 165 ft. deep.

Mr. Smith understands that Mr. Eastburn is attempting to obtain waivers of other requirements, such as blacktopping driveways and parking areas. Mr. Smith purchased his land in 1954, moved into his new home in 1959, and over the years, has suffered through large amounts of dust from quarry vehicles before the roadway was even blacktopped. Mr. Smith is concerned that if Gro-N-Sell does not blacktop it's driveways and parking areas, the resulting dust pollution will be overwhelming.

5. Mr. Bob Tarko who lives on the corner of Broad Street, stated that in January or February, a young man from a consulting engineer's office came to his home asking to measure the depth of his well. Mr. Tarko informed the man he would think about it. Several days later, Mr. Tarko received a phone call from someone asking if they could measure his well, however he denied that request. Mr. Tarko has not heard much about what has been done, technically, to approve the Gro-N-Sell site. Mr. Tarko felt proof should be substantiated on what the land in the area can handle as far as water service, and also it's affect on the surrounding wells. Mr. Tarko's home is located very close to the project, however he knows his well has not been considered. Mr. Tarko is neither for nor against this project, he would just like to see it done correctly.

E. CONFIRMED APPOINTMENTS -

1. Gro-N-Sell - Mr. Charles King, legal representation for Mr. Eastburn and Gro-N-Sell, was in attendance to discuss the plan. Mr. King believes Mr. Eastburn has complied, in every respect, with the Ordinance of Hilltown Township by completing the water study. It appears to Mr. King that everything required for the approval of this land development plan has been done.

Ms. Gaye Deemer of INTEX addressed Mr. Michetti's comments, dealing mainly with the paper study, which is basically a water impact study. As Mr. Michetti pointed out, there are many figures in the study, concerning the number of surrounding residents, and water use in the area, but mostly, the biggest problem with this sort of study is that it is based on information INTEX does not technically have. INTEX utilized information on an area-wide basis, and, as Mr. Fox pointed out at a previous Planning Commission meeting, there are many numbers which could be used in the study for recharge rates. There is a study that INTEX conducted in 1986, and there is also a study that R.E. Wright completed for a large basin underlined by a similar type of bedrock. In fact, R.E. Wright

utilizes several different numbers to mean several different things. Ms. Deemer felt this really should be an indication of how difficult it is to apply these numbers to any small area, let alone to a single property. In fact, Ms. Deemer noted, it really is not possible because it is a paper study. Those numbers were never intended to be applied on a single property. There is no way to tell from the test that INTEX does, whether or not those numbers apply to that very small piece of property in Hilltown Township. The recharge rate on that piece of property could be ten times higher than the recharge rate used in the study, or it could also be ten times lower. The study is simply designed to give a very rough indication of whether or not there is going to be enough water to meet what is being withdrawn. Ms. Deemer could take that site, and as the Ordinance requires, expand it to a quarter mile radius, to a mile radius, or to encompass all of Hilltown Township, and it would not necessarily say anything more than what has already been stated in the report. The fact is, it is a paper study, and Ms. Deemer does not know what the recharge rate is, and INTEX is not intended to address and take all the measurements to determine the exact recharge rate on that particular piece of property. What INTEX did do was a pumping test, utilizing Hilltown Township's very specific requirements for that. INTEX has monitored wells surrounding Gro-N-Sell's well for the pumping test. They have measured the effect to the best of their ability, that this well, pumping at 5 gallons per minute, which is higher than the proposed withdrawal rate of the well is going to have on those surrounding wells. That is the information INTEX has provided to Mr. Eastburn. Taking these numbers and attempting to apply them to a single piece of property is not a good idea and is not representative of what actually takes place. Ms. Deemer would not recommend that someone uses these numbers. INTEX uses the pumping test data, which is before the Board of Supervisors. Ms. Deemer advised a quarter mile radius is used around the well, the purpose of which is to determine the effect of that well in a quarter mile radius.

Chairman Bennett asked why the original proposal from Gro-N-Sell was to use 750 gallons per day, and yet by the time the plan reached the Planning Commission several years later, the figure of 750 gallons has been multiplied approximately six times. Chairman Bennett does not believe the opposition to this plan would be so great if the original estimate of 750 gallons of water use per day was still proposed. To Chairman Bennett, the new estimate of 4,500 gallons usage per day appears to be one of the most serious problems.

Mr. David Eastburn, owner of the site, recalls that at their first meeting with the neighbors, the estimated figure of water usage was 1,700 gallons per day. At that time, the proposal they hoped to take to Hilltown Township was for half the amount they are applying

for at this time. However, because of the delays encountered in previous meetings the construction date was put back, and in the meantime, the applicant's need for more space has expanded. This is why the proposal before the Board now is for a larger area than the first proposal. Chairman Bennett noted it is significantly larger. Supervisor Fox was present at the Planning Commission meeting and at the Zoning Hearing Board meeting, at which he was a witness for the Township. Supervisor Fox commented Mr. Eastburn's statement that his proposal was half the size or smaller when he first applied is not correct, actually the proposal was larger. Originally, Supervisor Fox recalls that the three buildings were proposed at 50,000 sq. ft. each when the applicant appeared before the Zoning Hearing Board and the Planning Commission. Also, when Mr. Eastburn appeared at the Zoning Hearing, he spoke about water usage of 700 - 750 gallons of water per day for atleast the first or the first two buildings, which Supervisor Fox believes is so noted in the testimony of that hearing. This is not counting usage in the house itself. Supervisor Fox does not know what impact Mr. Eastburn's statement of a maximum usage of 750 gallons of water per day had on the Zoning Hearing Board's decision. Even though the Zoning Hearing Board does not rule on that sort of thing, it is very important. Supervisor Fox was against this water intensive business because he knew the proposed water usage was not proper, and stated such at the time. When Mr. Eastburn then proposed water usage of 2,200 - 2,400 gallons per day, Supervisor Fox felt the applicant would be utilizing even more water. Supervisor Fox believes that even now, at 4,500 gallons of water usage per day proposed, when Mr. Eastburn has completed all his buildings, he will be utilizing much more than 4,500 gallons of water per day. In previous testimony before the Planning Commission several months ago, Supervisor Fox noted Mr. Eastburn, in the future, intended on asking for more water usage and wanted to use the first study completed by Ms. Deemer when he did. At the time, Supervisor Fox believes he stated that the applicant would have to complete a new study, since proposed homes in that area were not taken into consideration in the study originally prepared by INTEX. It is Supervisor Fox's concern that Gro-N-Sell will use more water, and with new homes proposed, everybody will be "putting the straw in the aquifer". The more houses there are, the less recharge there will be in the general area. Supervisor Fox wished to correct Mr. Eastburn's earlier statement that when he originally applied, he would be having half the number of buildings, though actually he was going to have more than explained to the Board in square footage. Mr. Eastburn commented the original drawing of 1989 was a different configuration of greenhouses, along with a Phase I and Phase II, including different amounts of square footage. What the applicant is proposing now is for both Phase I and Phase II of the original configuration. This is where Mr. Eastburn believes Supervisor Fox is having a discrepancy with what he recollects on the square

footage Gro-N-Sell was originally looking to do. Mr. Eastburn thinks the original proposal was in the neighborhood of 20,000 sq. ft., with buildings, and he was proposing only two greenhouses, which were much longer than what is currently proposed. Therefore, Mr. Eastburn noted, there has been a different configuration proposed. Supervisor Fox agrees there was a different configuration, however each greenhouse was proposed at approximately 1 1/4 acres. Mr. Eastburn disagreed, stating that all of Phase I and Phase II was proposed at one acre, and he would stand by that testimony if Supervisor Fox would like to check the record or past plans to verify that. Mr. Eastburn also noted that with the logic of recharge, if that were the case, than in reality a five acre parcel is not enough to support a home. Supervisor Fox stated a five acre parcel is enough recharge to support a home. As a matter of fact, according to the INTEX study, it states that 3.2 acres per home for an on-site system and an on-site well.

Mr. Eastburn would like to address the issue of water usage. Mr. Trapp had given some water usage reports from his place of business, however his type of growing is different from what Gro-N-Sell would grow. Mr. Eastburn believes Helberg's cycle of usage is higher in the summer months due to the greenhouses being full in the summer. Mr. Trapp commented the greenhouses are not as full during the summer months as they are the remainder of the year. Mr. Eastburn stated his type of usage and production is different from that of Mr. Trapp's employer.

Mr. Eastburn commented many people have been "throwing around numbers", saying that he has misrepresented things. Mr. Eastburn stated it is not his intent to misrepresent anything, and he has spent a lot of time and money in an attempt to complete this project properly and to be "up front" with the neighbors. As a matter of fact, Mr. Eastburn even met with the neighbors before they purchased the property, and explained to them what their hopes were for this property.

For clarification, Mr. Trapp had testified that the company he works for has an operation the size of 100,000 sq. ft.. Mr. Eastburn advised his proposal, going back to the original drawing, includes Phase I and Phase II, and is approximately 40,000 - 42,000 sq. ft. in size. To dispel the fears mentioned earlier by Mr. Smith addressing the issue of trucks and dust, Mr. Eastburn replied his operation could actually fit it's years supply of soil needed in one truck.

Mr. Smith was not very comfortable with the comments made by Ms. Deemer because it does not have anything to do with the square footage, the square acreage, or the square yardage, but it is simply based upon the capacity of the well. Mr. Smith believes there is a certain minimum required per household. Mr. Smith has

Page 15  
Board of Supervisors  
May 24, 1993

been involved in a very large development, and advised you could have one well pumping 15 gallons per minute, and just an acre away you could have one well pumping 1/2 gallon per minute. Mr. Smith believes the only relevant points this evening concern the capacity of the wells, and the capacity needed for Gro-N-Sell's water supply, and it's effect on the neighboring wells. All the other issues discussed this evening are redundant.

Supervisor Bennington noted INTEX conducted a thorough study of the water, and then submitted three recommendations on page 17 of the report, which indicate to him that there was a problem before the report was even finished. The report recommendations state that withdrawal should be intermittent to allow for water level recovery, that the pump installed in the Gro-N-Sell well should be operated at a rate of three to five gallons per minute, and the pump should be set at depth that will allow for deep pumping. Supervisor Bennington asked if Ms. Deemer stands by those recommendations. Ms. Deemer is not saying that the Gro-N-Sell well has a capacity or a yield of much higher than five gallons per minute. It is clear that even at five gallons per minute, there was 60 ft. of drawdown in that well. However it is still a fact that of the wells INTEX monitored surrounding the Gro-N-Sell well, the maximum drawdown was approximately 3 1/2 ft. Ms. Deemer agrees that the Gro-N-Sell well does draw down deeply, and does not have a yield much higher than 5 gallons per minute. Ms. Deemer is not sure what the ultimate yield was. When the drillers installed the well, they estimated 20 gallons per minute, though Ms. Deemer does not believe it will get 20 gallons per minute. Supervisor Bennington asked Ms. Deemer if the results of her study are telling Mr. Eastburn that he will have a problem before he even starts. Ms. Deemer replied a maximum of five gallons per minute is more than Mr. Eastburn needs to withdraw, intermittently. Supervisor Bennington asked how intermittently withdrawal needs to take place. Normally, Ms. Deemer replied, wells such as that could pump for eight hours on and sixteen hours off. The well did recover very quickly, regardless of whether it was the highest recharge period of the year. This is why Ms. Deemer conducted the pumping test. A pumping test is really immaterial because the aquifer will respond the same way, regardless of what the water levels are. Ms. Deemer understands neighboring residents concerns about water levels and the fact that tests cannot always be conducted in August and September. However the fact remains that when you conduct a pumping test, you are assessing aquifer characteristics, and those things do not change with the water levels. Water levels may change, but the characteristics do not change. Therefore, Ms. Deemer noted, there is no reason to expect that the Gro-N-Sell well is going to have any more affect or cause anything greater than 3 1/2 ft. of drawdown in August or September, than it did in February. In February or March, Supervisor Fox stated, the highest recharge is experienced before trees and grass begin to grow. If

Supervisor Fox understands Ms. Deemer correctly, it does not make any difference if the ground is being recharged at a very high rate and will make no difference compared to the recharge during August and September. Ms. Deemer is saying the effect that well is going to have on surrounding wells is not going to be significantly different. Ms. Deemer believes water levels will change with changes in recharge, however the effect of the Gro-N-Sell well on surrounding wells is not going to be anything greater than 3 1/2 ft. A neighbor's well may be 20 ft. lower, but the effect of the Gro-N-Sell well will still be 3 1/2 ft. Supervisor Fox asked if Ms. Deemer thinks, because there is more water going into the ground each day, instead of 53,000 gallons per square mile per day as R.E. Wright had stated, maybe 150,000 or 200,000 gallons per day per square mile isn't going to make the difference on how rapidly that well recharges and fills up. Ms. Deemer does not know what the recharge rate on that property is, though she has numbers that vary tremendously, as Supervisor Fox has pointed out. The pumping test was never designed to answer that specific question, and Ms. Deemer does not know the answer to the question. Ms. Deemer does not know how to assess the recharge rate, other than with the published data that she currently has, without doing a several month study utilizing infiltrometers and a great amount of data gathering.

Supervisor Bennington asked if Ms. Deemer would personally purchase a home right around the corner from Mr. Eastburn's Gro-N-Sell property. Ms. Deemer replied she would buy a house in that area if she could afford it, because she knows the results of the well testing. Ms. Deemer knows that at the most, she saw 3 1/2 ft. of drawdown in a surrounding well. Possibly, in a well a bit closer to the site, there might be a bit more drawdown. Most of the wells in the area are fairly deep wells, and she personally would not be afraid that what Mr. Eastburn is taking out of the ground would have a negative effect on her well.

Mr. Jeff Bagley wondered how INTEX selected the wells for testing. Mr. Bagley's well was tested, however two of his next door neighbors were never contacted about this study. Mr. Bagley owns Lot #1, which is probably the furthestest point from the Gro-N-Sell location. The lot owner behind Mr. Bagley is approximately half the distance from the Gro-N-Sell location that Mr. Bagley is. Mr. Bagley wondered if there was any investigation into the capacity of the wells before the testing was conducted. Mr. Bagley is fortunate enough to have a decent well, however he knows the neighbor behind him who was not tested, has a well that is less than half the capacity of his well, though that well is twice as deep. Mr. Bagley found it curious that his neighbors were never contacted for this study, and felt that possibly the study was "slanted". Ms. Deemer replied any time a pumping test is done, it is INTEX' intention to find a representative number of wells



surrounding the well they will be pumping. INTEX cannot, obviously, monitor every single well, therefore, they search for wells in all directions and at a variety of distances to get the maximum amount of information. Ms. Deemer attended a Planning Commission meeting where INTEX presented their network to the Planning Commission. The Planning Commission then requested that INTEX add several wells, which they did, in addition to other wells belong to residents who called in after hearing of the pumping test, and specifically requested that their wells be monitored. As a result, Ms. Deemer felt there was is actually a very good representation of surrounding wells. It is not INTEX intention when doing a pumping test to monitor each resident's well, there are simply too many. What INTEX intends to do is monitor a representative number of wells in all directions. As the Board is probably aware, in fractured bedrock there can be a directionality to the effect of a pumping well and surrounding wells, and therefore it is INTEX intention to find wells in a number of directions. Employees of INTEX choose houses, drive the area and stop to ask residents if they may use their well for testing. The next step is to look for the well, insure that it is accessible, and if the owner's permission has been granted, attempt to get a water level reading immediately to determine whether or not it is a usable well. The monitoring well network was approved by the Planning Commission before the test began.

Chairman Bennett asked Ms. Deemer and Mr. Eastburn how they can reassure these residents that they will not experience water problems, and what the alternatives might be. Chairman Bennett has looked into the possibility of public water, however that is impossible in the foreseeable future, as it would cost hundreds of thousands of dollars to bring public water into the area. If he saw that coming within the next two years, Chairman Bennett would not be concerned.

Mr. Eastburn has considered utilizing quarry water in the event neighboring wells experienced problems. Supervisor Fox recalled that back in 1984 to 1987, when Hilltown residents were running out of water in epidemic proportions, the suggestion came up to construct a water tank on top of the hill above the quarry, thereby establishing a water system. That suggestion was discussed and reviewed, as part of the Upper Bucks Regional Water Study, which ended in 1986, however it was discovered it was not feasible.

Mr. Smith again stated the depth of the well has nothing to do with the water issue being discussed. Supervisor Fox asked Mr. Smith for his qualifications. Mr. Smith is an engineer and he knows how to calculate. He also knows that the rate of recovery is the most important thing in a well. Mr. Smith has been listening to this discussion all evening, and he has not heard any facts which will help the Board make an intelligent decision on this issue.

**\*9:05PM - Chairman Bennett announced the Board would be taking a ten minute recess, and reminded those present that there is no smoking allowed in the building. The May 24, 1993 meeting of the Hilltown Township Board of Supervisors reconvened at 9:15PM.**

Chairman Bennett announced no further debate concerning Gro-N-Sell will be heard, as both sides have presented their arguments. One of Chairman Bennett's personal concerns has been the fact that the Planning Commission has tentatively approved this project, and 98% of the time, Chairman Bennett agrees with the Planning Commission because he considers them to be the experts. One man that has been conversant with the Gro-N-Sell operation from the point of application is the Township Engineer, Mr. C. Robert Wynn. Chairman Bennett asked Mr. Wynn for his comments on the matter, particularly in view of the fact that there are other conditions which must be met before tentative approval would be given.

At their March 15, 1993 meeting, Mr. Wynn noted, the Planning Commission made a recommendation for final plan approval to the Gro-N-Sell Land Development, and as indicated, there were some other conditions of that recommendation. One of the issues was something that this Board left incomplete at the meeting during preliminary plan approval, which deals with paving of the access driveways and entrance ways. Mr. Wynn stated the plan before the Board this evening is a final plan, which includes a driveway width of 24 ft., and that driveway width is larger and wider than Callowhill Road. The Planning Commission has made a recommendation that was approved with a 4:0:1 vote that the applicant may reduce the driveway width to 16 ft., from the 24 ft. shown on the preliminary plan. However, the Planning Commission had also indicated they would not modify their original preliminary plan recommendation, which was to deny the waiver requested by the applicant of Section 410M of the Subdivision/Land Development Ordinance requiring that the driveway and entrance parking areas be paved. Mr. Wynn noted that issue is something this Board has never acted on, as it was tabled during preliminary plan discussion.

Supervisor Bennington asked if Mr. Eastburn is willing to pave the entire property. Mr. Wynn replied the applicant's engineer had contacted his office last week, offering to donate paving to the Township park in lieu of paving on their site. Mr. Russ Benner of Environmental Design and Engineering, engineer for the applicant, wished to clarify that Mr. Eastburn has agreed to pave the driveway along the boundary of the Heckenberger property, which is the parcel located essentially in the center of the Gro-N-Sell tract, in order to avoid any nuisance to that property. Then, in lieu of further paving for the remainder of the property, Mr. Benner advised the applicant is requesting that a stone base be used within the remaining driveway and parking areas. Supervisor

Bennington pointed out that solution was not the recommendation of the Planning Commission. Mr. King, counsel for the applicant, stated that Mr. Eastburn will do what he has to do in order to comply with the Ordinance. Mr. Eastburn is suggesting and requesting a waiver of the requirement for paving, with good reason. The reason Mr. Eastburn is requesting this waiver is because he does not have the significant amount of vehicle traffic that would warrant the extraordinary amount of paving that would be required. Aside from the cost considerations, which are significant, Mr. King stated it would be an improvement to this plan if the amount of blacktop that is required is not installed. The site is a relatively rural area, and the project itself is not that intense that it would be enhanced by the amount of blacktop required. Aside from the run-off problems and the water problems, Mr. King felt the blacktop is not necessary for the type of project which has been proposed. Mr. Eastburn has asked for a waiver of this requirement, however if this Board chooses to require the paving, Mr. Eastburn will certainly do it.

Mr. Wynn noted some other conditions of this project which must be met include obtaining a Highway Occupancy Permit from PennDot for improvements along Callowhill Road, which consists of right-of-way grading and construction of a swale pipe extension, and for the site access. Mr. Wynn knows an application has been made to PennDot, however at this time, the Township does not have a copy of an issued permit. The Highway Occupancy Permit is required both by the Subdivision/Land Development Ordinance, as well as Pennsylvania Code. A condition that has been met is approval of the Planning Modules by Pennsylvania Department of Environmental Resources. The Planning Modules have been received, with approval dated April 30, 1993. An additional condition is that the final design of the stormwater retention basin and permanent pond be coordinated with the Hilltown Township Volunteer Fire Company, such that same may be available to the fire company for fire fighting purposes during emergencies. It is Mr. Wynn's understanding that the applicant had agreed to do that, and believes that is a matter of making sure the pumper truck can gain close enough access to the pond. An additional requirement is that an Escrow Agreement be executed between the applicant and the Township to guarantee installation of all public improvements, including but not limited to the erosion control facilities, stormwater management, landscaping and all work within the Callowhill Road right-of-way. There are also two conditions the Planning Commission had recommended with respect to the well and water withdrawal. These conditions included that an agreement be executed between the applicant and the Township to guarantee that the well is not pumped at a rate in excess of 5 gallons per minute, and that the maximum withdrawal does not exceed 4,500 gallons per day, and that the water withdrawal is intermittent to allow for water level recovery. Mr. Wynn noted that was approved by a vote of 3:0:2 (with two

abstentions). The final condition of the Planning Commission is that the Supervisors should consider requiring the applicant to enter into an Escrow Agreement with the Township to provide for well protection and/or replacement for property owners in the area. That also was approved by a vote of 3:0:2. The above are recommendations by the Planning Commission, by a majority vote, to approve the Gro-N-Sell final Land Development plan.

Supervisor Bennington asked Mr. Eastburn if he is willing to abide by the the condition that an agreement be executed between the applicant and the Township, guaranteeing that the well is not pumped at a rate in excess of 5 gallons per minute, and that the water withdrawal is intermittent to allow for water level recovery, based upon the recommendation of the INTEX manual. Mr. Eastburn agreed not to pump in excess of 5 gallons per minute. Supervisor Bennington asked if Mr. Eastburn is willing to agree to intermittent water withdrawal to allow for water level recovery, at a maximum of eight hours per day. Mr. Eastburn asked if that would be straight pumping. Supervisor Bennington asked what Ms. Deemer considered intermittent. Ms. Deemer replied intermittent means that pumping would cease to allow the well to recover. Mr. Eastburn's well recovers after approximately one hour, though Ms. Deemer is not necessarily suggesting pumping of that well for twenty three hours. Mr. Wynn did some quick calculations and believes that eight hours of pumping with Mr. Eastburn's well would not supply 4,500 gallons per day, it would only supply 2,400 gallons per day. If the applicant were limited to a maximum of 5 gallons per minute, and 4,500 gallons per day, and if they pumped at the maximum, they would be pumping water 15 hours per day. Mr. Wynn commented the Planning Commission had also recommended that an agreement be executed guaranteeing that the well would not exceed 5 gallons per minute, nor would it exceed 4,500 gallons per day. Chairman Bennett felt the well would have to pump 15 to 16 hours per day. Supervisor Bennington thought the Planning Commission had recommended monitoring of the wells even after the fact.

Supervisor Fox advised the Planning Commission recommended that a meter be installed on the well, similar to those provided by the water company, to determine how much water was being pumped each day. This meter would be sent to the Township for monitoring on a weekly basis. Chairman Bennett asked if that was stated as a condition. Mr. Wynn replied that it was discussed, however it was not part of the official motion. Supervisor Bennington asked how the Township would know if Gro-N-Sell pumped over 5 gallons per minute per day, or over 4,500 gallons per day. Mr. Wynn suggested a mechanical meter could be installed which would have to be read and monitored daily. If Mr. King understands correctly, what his client has agreed to is to limit the pumping to 5 gallons per minute. With regards to the monitoring, Mr. Eastburn would allow

Page 21  
Board of Supervisors  
May 24, 1993

the Township to install a meter at his expense and monitor it on a daily basis. Mr. Wynn wondered why the Township is installing the meter, when it clearly is the responsibility of Gro-N-Sell, and suggested the applicant pay for the cost of installation of the meter, and allow it to be installed by the Township.

Mr. King feels Mr. Eastburn is being singled out because this is not the only operation utilizing water within Hilltown Township. The applicant has done the engineering report and feels it is pretty clear that there is no significant adverse effect on any of the wells surrounding the Gro-N-Sell property. Mr. Eastburn is willing to accomodate the Township, and is willing to do what makes the Township comfortable, however he feels he is being singled out at his additional expense. Supervisor Bennington commented Mr. Eastburn is really protecting himself, as well as the residents of this Township, by agreeing to these accomodations. Supervisor Fox feels the Township should periodically visit the site to check the meter, though it may not be on a daily basis. The problem is, that even with Mr. Eastburn's own water study results, during draught years, he himself will most likely run dry, pumping at 4,500 gallons per day. Supervisor Fox believes with the continued construction of new homes in that area drawing from the aquifer, the object is to protect the natural resources and see that no one runs out of water, including Mr. Eastburn.

Mr. Wynn explained the final condition recommended by the Planning Commission is that the Supervisors should consider requiring the applicant to enter into an escrow with the Township to provide for well protection and/or replacement for property owners in the area. Supervisor Fox, as a Planning Commission member, did not agree with this recommendation at the time it was made, and does not believe it is legal. Supervisor Fox also asked what period of time Mr. Eastburn would be held liable. Chairman Bennett replied a time limit would be placed on Mr. Eastburn's liability, which would likely be 12 to 18 months. Personally, Chairman Bennett is not worried about water for the next 12 - 18 months because he feels we are above average with rainfall at this time. However he is mindful of the fact, after living in Hilltown Township for over 30 years, that many wells can and do run dry in this area. Chairman Bennett believes that those residents who have wells which are presently 75 ft. to 125 ft. deep will be experiencing problems, not because of Gro-N-Sell, but because the wells are simply too shallow. Chairman Bennett replaced a well with a 400 ft. well on Fairhill Road in 1966, which was originally 125 ft. deep. It has been Chairman Bennett's experience that many of the wells within Hilltown Township are now mostly 400 ft. to 600 ft. deep.

Mrs. Janet Aischle reminded the Supervisors that there is already a water problem in this Township. When a nursery, or any business which requires water to grow plants is proposed, and that water is

not available, it will create problems for the entire Township. Residents of Hilltown Township can live with just about anything, but they cannot live without water.

Chairman Bennett asked if the applicant has supplied any provisions such as a reservoir for water storage. On the plan submitted to the Township, Mr. Eastburn replied, there is a retention pond proposed with the capacity to store over 500,000 gallons. At this time, Mr. Eastburn feels the technology is not there to recycle that water, however in the future, he believes that will become a very real possibility.

An unidentified resident commented the Board has the ability to require Mr. Eastburn to complete extensive paving on his property. The extensive paving means more impervious surface and is also an additional expense to the applicant. If this project were approved, and the resident does not hope that it is, he would like there to be some recourse for he and his neighbors to have the ability to lay claim against Mr. Eastburn if their wells do go dry. If the Board has the ability to require the paving, the resident suggested in lieu of that, Mr. Eastburn be required to install some sort of water storage system which the applicant could draw from if there was a water problem. Chairman Bennett believes the applicant requires a high purity of water for the particular type of growing he does, rather than drinking water. Supervisor Fox noted whether it is crushed stone or paving, it is still impervious surface. Supervisor Fox commented when stone gets packed into the ground, there is no recharge through the stone. Chairman Bennett believes the paving would be relatively inexpensive compared to storing half a million gallons of water. Mr. Eastburn advised at his facility in Warrington they have used 3/4 clean stone to allow vehicle traffic, and there is equipment to maintain the stone. Modified stone is not used because it creates an impervious surface, according to the Zoning Ordinance. The 3/4 clean stone does not take away from the ability of recharge. Concerning the water storage, it is immaterial whether it is in the tank or in the retention basin, because interior storage will not help filter bacteria. Chairman Bennett asked if there is a certain Ph content required. Mr. Eastburn agreed that there is and replied he is calculating that the greenhouse of one acre for every inch of rain will put off 27,000 gallons of water which will be saved in the retention basin.

Supervisor Bennington asked for the Solicitor's recommendation on this matter. Solicitor Grabowski believes all the comments made by neighboring residents are very salient and to the point. This is not an easy decision for the Board to make, and he does not envy them their task, as elected officials. Solicitor Grabowski stated INTEX, as a hydrogeology firm, has submitted a report, and it is up to the Board whether or not the report is complete and adequate

1580

Page 23  
Board of Supervisors  
May 24, 1993

for their purposes under the Ordinance. Unfortunately, there have not been any other hydrogeologists present this evening or at any Planning Commission meetings in the past, to give a "second opinion" regarding the report. From a legal standpoint, Solicitor Grabowski does not have any guidance to give the Board, as this is a situation the Supervisors will have to resolve as elected officials.

Supervisor Bennington commented to Mr. Michetti that he was a member of the Planning Commission when the water ordinance was written, and he feels he does know the water ordinance. After review of all the documentation concerning Gro-N-Sell, Supervisor Bennington feels this is a "no win" situation.

Motion was made by Supervisor Bennington to deny the Gro-N-Sell plan because he does not believe that Mr. Eastburn conforms to the guidelines of the water ordinance, nor does the study itself give enough information as to whether or not the neighboring wells will go dry from operation of the Gro-N-Sell well.

Supervisor Fox felt the study was not complete and contained many inaccuracies which were found by the Planning Commission. Supervisor Fox asked Supervisor Bennington if he would recommend that another water study be done by a different independent hydrogeologist firm. Supervisor Bennington commented he would, however the Township will not pay \$10,000.00 to do a follow-up water study. Nor does Supervisor Bennington believe the applicants want to pay \$10,000.00 for a follow-up water study, and they should not have to. Even if the recommendations of the Planning Commission are accepted by Mr. Eastburn, Supervisor Fox asked if that would be satisfactory to Supervisor Bennington. Supervisor Bennington replied that does not go far enough. Supervisor Fox asked how much further the applicant will have to go. Supervisor Bennington would like Mr. Eastburn to complete a second water study, by some firm other than INTEX, to insure that INTEX' original study confirms those results. Chairman Bennett asked the estimated cost of another study. Mr. Wynn had stated the cost would be approximately \$7,000.00 to \$10,000.00. Supervisor Bennington commented the entire matter boils down to water. He personally doesn't want to run out of water, Mr. Eastburn does not want to run out of water, and the neighboring residents do not want to run out of water either. Everything else is immaterial compared to the water issue.

From the very beginning, Supervisor Fox felt the 7,000 to 7,500 gallons per day of water usage estimated by the applicant was inaccurate, and always believed that Gro-N-Sell would use more. Supervisor Fox believes that once the buildings are constructed, Gro-N-Sell will be utilizing more than 4,500 gallons of water per day, which will deplete their water supply and the water supply of

1581

those in the area as well. Supervisor Fox does not feel comfortable with the amount of water usage being proposed by Gro-N-Sell. Not to debate what type of operation Gro-N-Sell is, whether it be commercial or agricultural, Supervisor Fox felt it is a water intensive industry, and felt water intense uses should be kept in areas where there is public water. Therefore, Supervisor Fox seconded the motion made by Supervisor Bennington.

Mr. Wynn asked Supervisor Bennington to repeat his original motion. Supervisor Bennington made a motion to deny the Gro-N-Sell plan, as stated, on the basis of the recommendation of the INTEX study which indicates there will be a water problem, there is a water problem, and there could be a water problem; and also because there is no conformance to the water ordinance in Hilltown Township. Supervisor Bennington felt the water study was inadequate as it applies to the ordinance itself. Motion passed unanimously.

**\*Chairman Bennett announced the Board will recess the meeting momentarily to excuse those residents present only for the Gro-N-Sell issue.**

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

1. Mr. Horrocks presented twelve escrow releases for the Board's authorization, three of which are cash held by the Township:

Country Roads Phase I	Voucher #09	\$	6,138.00
Country Road Phase I	Voucher #08	\$	1,169.57
Browning-Ferris Ind.	Voucher #14	\$	671.45
Pleasant Meadows Phase III	Voucher #27	\$	115.60
Off-the-Wall	Voucher #03	\$	194.75
Fretz Land Development	Voucher #03	\$	166.75
Ander's Carpets	Voucher #01	\$	420.95
Deerfield	Voucher #36	\$	913.60
Sterling Knoll	Voucher #53	\$	603.70
Owen Rice	Voucher #03	\$	98.00
Owen Rice	Voucher #04	\$	522.80
Summit Court	Voucher #1A	\$	172.70

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to authorize release of the twelve escrows as listed above.

2. Mr. Horrocks announced the Hilltown Township Park and Recreation Board will be sponsoring an event to be held on Monday, May 31, 1993 at 12:00NOON at the Civic Park. American Legion Post 245, V.F.W. of Sellersville, members of the Memorial Committee, Hilltown Township Supervisors and Representative Thomas Druce are scheduled to participate in the event.



1582

3. After a very lengthy and extensive interview process, Mr. Horrocks recommended the Supervisors appoint Mr. John P. Friel as the new part-time Zoning Officer of Hilltown Township.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to appoint Mr. John P. Friel as the part-time Zoning Officer of Hilltown Township.

Chairman Bennett commented Mr. Friel was interviewed by all three Supervisors, as well as Mr. Horrocks.

4. At the Board's direction, Mr. Applegate, Code Enforcement Officer, inspected the Spin-A-Round site, meeting with Mr. Meade, and Chief Gill of the Hilltown Fire Company. Mr. Applegate supplied the Board with a memo outlining his findings. Mr. Horrocks requested the Board's authorization for Mr. Applegate to enforce those items which are still outstanding.

Ms. Helen Murphy, the operator of Spin-A-Round Skating Center, explained the reason she originally asked Mr. Applegate to inspect the site was because they have an opportunity to obtain a mortgage for their balloon payment. The financial institution asked for a Certificate of Occupancy from the Township. After the initial inspection, Mr. Applegate noted twelve violations, some of which were incorrect.

Supervisor Bennington commented the first time Mr. Applegate inspected the site, he noted twelve violations, of which Mr. Meade did not wish to comply with and correct. Mr. Meade appeared at the last Supervisor's meeting, requesting that Mr. Applegate inspect the site a second time. Supervisor Bennington does not believe Mr. Applegate should conduct a third inspection before the Township receives proof that Spin-A-Round has corrected all of the violations. Ms. Murphy stated the first time Mr. Applegate came out, he made an appointment with her however he arrived a half hour late. Ms. Murphy had another appointment and had to leave before Mr. Applegate arrived. Mr. Applegate then inspected the building on his own, speaking to no one, and did not have any thing explained to him at all, which is why Mr. Meade requested he inspect the site a second time. Supervisor Bennington confirmed that Mr. Applegate inspected the site a second time, with Mr. Meade and the Hilltown Fire Chief in attendance, and feels Mr. Meade should now be in conformance with the twelve violations. Ms. Murphy stated she is attempting to explain those items which have been rectified. Mr. Horrocks noted that from Mr. Applegate's memo following the second inspection, Ms. Murphy has corrected some of the violations. Normally, Mr. Horrocks advised, Mr. Applegate would make a final inspection when he receives a call that all violations have been corrected, to issue a Certificate of Occupancy. Mr. Horrocks stated the B.O.C.A. Code the Township has

1583  
Page 26  
Board of Supervisors  
May 24, 1993

adopted states that if a new Certificate of Occupancy is requested, the applicant must deal with the Codes as they are listed in the book, and the authorized Code Enforcement Officer must give final approval. Mr. Horrocks asked if all twelve violations noted by Mr. Applegate are completely corrected by his standards at this time. Ms. Murphy stated Mr. Applegate said he would do whatever the Hilltown Fire Chief said. Mr. Horrocks explained Mr. Applegate can only do that with authorization by this Board.

Chairman Bennett explained the Board would like Spin-A-Round to comply with the violation letter sent by Mr. Applegate, and is sure that if the site is in compliance, the applicant will receive a Certificate of Occupancy immediately. Ms. Murphy replied only two items remain outstanding at this point.

Mr. Horrocks asked if Mr. Applegate, on his third and final visit, should waive any B.O.C.A. Code requirements without the Board's approval. Chairman Bennett replied if Mr. Applegate wishes to modify the requirements based upon recommendations of the Fire Chief, he personally has no objections. Supervisor Fox noted the Fire Chief does not know the B.O.C.A. Code. Supervisor Fox stated Mr. Applegate follows the law that has been passed by this Board, and if Mr. Applegate says that a violation regarding the door to the birthday rooms must be corrected in a certain way, than that is what should take place. The Code Enforcement Officer's decision supercedes the Fire Chief's decision. Ms. Murphy commented Mr. Applegate does not understand the situation, he thought the door was closed and locked, however it is the same situation as the exit doors, they are never barred during business hours. Supervisor Fox suggested Ms. Murphy explain that to Mr. Applegate, and if he agrees with that, it is fine. However if Mr. Applegate disagrees with Ms. Murphy, there is still a violation to be corrected. Chairman Bennett stated the Supervisor's main concern is the safety of the children who are in the building at any one time, and since Mr. Applegate is the Code Enforcement Officer, his decision is final.

Ms. Murphy will post the occupancy sign first thing in the morning, if the Board will tell her what size the sign should be and where it should be posted. Mr. Horrocks suggested Ms. Murphy arrange a final inspection with Mr. Applegate and he can bring that sign along with him, because they are available here at the Township office. Ms. Murphy noted the B.O.C.A. requirement is slightly different from the uniform building requirement, however in either case, the maximum occupancy is way over what Spin-A-Round would ever have in the building at any given time.

5. Concerning a complaint which was brought to the Board at a previous meeting, Mr. Horrocks was directed to file a civil complaint with the District Justice against the Jones property.

Page 27  
Board of Supervisors  
May 24, 1993

A technicality in Act 170 arose which states that a Township absolutely must have a Notice of Violation sent prior to any enforcement action. At the time, Mr. Horrocks was unaware that in late December of 1992, Mr. Applegate did in fact issue a Notice of Violation, and in the meantime, Mr. Horrocks had already issued a second Notice of Violation to Mr. and Mrs. Jones. Up until this moment, Mr. Horrocks has not yet taken this matter to District Justice court, because of that error on his part.

Mr. Kozitzky asked Solicitor Grabowski if he is familiar with the Pennsylvania Municipal Planning Code. Solicitor Grabowski replied that he is. Mr. Kozitzky read Section 53 PS 1100 3A - Appeal to Court, Subsection D, which states "The filing of an appeal in court under this Section shall not stay the action appealed from, but the appellant may petition the court having jurisdiction of land use appeals for a stay". Solicitor Grabowski explained this means that if someone has a decision from the Zoning Hearing Board, that does not give them an automatic right to continue their activity, they proceed at their own risk. There are Pennsylvania cases along that line, and it was law before the Municipalities Planning Code even came into effect, with the various amendments. Specifically, this involves the Jones Topsoil case. The history of this case, as Solicitor Grabowski understands it, is that Mr. and Mrs. Jones applied to the Zoning Officer for a zoning permit, which was rejected, and a hearing was then held before the Zoning Hearing Board. The Township did not participate, for whatever reason, in the Zoning Hearing decision. At that time, the Zoning Hearing Board denied the request of Mr. and Mrs. Jones for a variance on the matter. The activity that has apparently been continuing since the time of the Zoning Hearing decision, is an activity that arguably has occurred for the past five to ten years. Solicitor Grabowski did not attend the last Supervisor's meeting, however from reviewing the minutes, he understands Mr. Kozitzky mentioned his concerns regarding dust, noise, traffic, and the presence of municipal sludge from the city of Lancaster, which were issues discussed at the Zoning Hearing held for Mr. and Mrs. Jones. Solicitor Grabowski understands Mr. Kozitzky wants to know what is being done to eliminate those particular problems now. Mr. Kozitzky noted that the Jones' site is located in a Rural Residential zoning district, and is a business which does not conform to the rules of zoning. Mr. Kozitzky feels this business does not belong in the neighborhood, and is strictly a violation of zoning. According to Mr. Kozitzky's interpretation of the Pennsylvania Municipal Code, the Township has a right to stop this business immediately. Solicitor Grabowski does not make the decision as to what cases are pursued or not pursued in this Township. Solicitor Grabowski has read previous minutes, and has read the Zoning Hearing Board decision, and in fact, obtained a copy of the transcript from that hearing. Solicitor Grabowski advised the Township could go into Bucks County Court and file a

petition for an injunction, and it could also go to the District Justice Court to file a complaint, which is now a civil matter, based upon the violation of the Ordinance. Solicitor Grabowski has counseled the Supervisors during the last two weeks. Following the Zoning Hearing Board decision, Mr. and Mrs. Jones filed an appeal at the Bucks County Court of Common Pleas. The Zoning Hearing Board is given a certain amount of time to gather the record together, to transcribe the exhibits, and to ship them to the courthouse to be given to the judge who has been assigned that particular case. Next, a party who is involved must request the court to have a conference. The conference consists of the assigned judge holding a meeting in his chambers, requesting that all the attorneys involved be present. The Township filed the petition with the court to establish that conference date several weeks ago. At this point, no word had been received from the judge who was assigned the case, that he has established a date for a conference. Normally, it could take anywhere from 45 to 60 days from the time the original petition is filed. At that conference, Solicitor Grabowski explained, the judge will ask all the parties what is involved with the case, and will decide whether or not he wishes to hold a completely new hearing on the matter. However, that normally does not happen. The judge will also ask if any of the parties requests the opportunity to present any new evidence to him in terms of a supplemental hearing. That may be opposed by any of the other attorneys. As a result of that conference, the judge will set a schedule as to what he is going to do. Solicitor Grabowski does not believe this particular activity is allowed under the present Zoning Ordinance, and Mr. Kozitzky agreed. Solicitor Grabowski stated to go into court for an injunction to speed matters up, is not that simple. The process is that if Hilltown Township were to file a petition for an injunction, it may be assigned to a different judge than that who has already been assigned the zoning case. Judges are very reluctant to issue inconsistent opinions or decisions, if it involves the same matter. Solicitor Grabowski has seen cases where the judge has opted to wait for the zoning decision to be made. As a matter of fact, there was a recent case in Hilltown Township where the Zoning Hearing had not yet been held, yet the Township requested an injunction. The judge then waited until the zoning decision was received, because if it were granted, there would be no reason for him to be involved with an injunction. In order to file for an injunction, Solicitor Grabowski stated the issues which must be proved relate to dust, noise, traffic, sludge, and the violation of the Zoning Ordinance in general. The judge could then say that he will wait for the zoning decision, because that is the ultimate issue in this matter. With regards to the issues of sludge, Mr. Horrocks has been in contact with the Department of Environmental Resources. As to dust, noise and traffic, while there was testimony during the Zoning Hearing concerning that, the judge is going to want expert testimony concerning those matters.

Hilltown's own Zoning Ordinance has provisions which speak of certain levels of dust control, noise control, and traffic. For example concerning noise, there are provisions in the Zoning Ordinance which speak in terms of maximum decibels during certain hours. Solicitor Grabowski would need testimony from someone who is certified in the area of noise to testify that noise levels have been tested and the results reviewed clearly showing a violation. For dust levels, dust collectors would need to be installed to prove the allegations of high levels of dust. To file an injunction, Solicitor Grabowski would require expert independent testimony, which is exactly what he has counseled the Township to do, if they wish to pursue the matter in this way. As public officials, it would be the Supervisor's decision to hire the independent experts. Solicitor Grabowski stated by having the neighbors appear, giving the testimony that was given at the Zoning Hearing, a judge will say that it is merely a disagreement, and will ask for expert testimony. Mr. Kozitzky commented the violation still remains, and the Jones' family does not have the right to operate the business. Mr. Kozitzky asked why he and his neighbors should have to prove these things with expert testimony. Solicitor Grabowski explained that if the Board wishes to file for an injunction, these are things that he needs to have. If someone has told Mr. Kozitzky that an injunction is a speedy process, they are wrong. Justice is not speedy at all. For example, Solicitor Grabowski advised, Telford Borough Authority filed for an injunction against this Township in November of 1992, yet the next hearing on this matter will be held on June 25, 1993. Obviously, our judicial system does not move fast. Solicitor Grabowski suspects that Hilltown Township can file all the documents we want for an injunction in Bucks County Court, however he is not even sure there would be a hearing before the zoning issue came up for a final decision. Solicitor Grabowski suspects the zoning issue will precede anything else. Mr. Kozitzky asked if Solicitor Grabowski is advising that the Board wait for the zoning decision. Solicitor Grabowski has told the Board the facts, and asked them to make a decision.

Solicitor Grabowski noted there were amendments made to the Municipality Planning Code approximately 18 months ago, which changed the complaint process with the District Justice from a criminal matter to a civil matter. This complicates things a bit because now it becomes very difficult to get search warrants, etc. If the Township files a citation with the District Justice, Solicitor Grabowski is not sure what the new District Justice will do. Solicitor Grabowski will suggest to the Township that we would have to have the same experts testimony, though if they do not wish to go to that expense, the Township could still file, using the neighbor's testimony. The District Justice might very well agree with the Township, however the Jones' family can take certain steps at that point, which would then stay the process. Mr. Kozitzky

felt the Zoning Ordinance doesn't mean anything, if this is the case. Solicitor Grabowski commented the operation continuing at the Jones' property is an activity which has gone on for many, many years, and for whatever reason, the Township or the neighbors have never taken any action against it. Mr. Kozitzky disagreed, stating complaints were issued a number of years ago. Solicitor Grabowski's office has never been authorized to take any action against the Jones' property. Solicitor Grabowski does not believe that the Zoning Ordinance of Hilltown Township has no bearing, or holds no weight. There has been a Zoning Hearing decision made on this matter, and the Township has filed for a conference in court. Mr. Kozitzky does not understand why the Township cannot appeal to the District Justice, through the Pennsylvania Municipal Planning Code appeal. Solicitor Grabowski is not going to disagree with Mr. Kozitzky, however he is willing to discuss the matter with his attorney and Mr. Hetherington about the matter, so that there is no misconception on anyone's part.

Mr. Kozitzky wished to apologize to the press for his harsh comments at the last meeting. Mr. Kozitzky feels his comments at that time served its purpose, however, because the issue did get coverage and the public now knows about the illegal business that is operating on Green Street in Hilltown Township.

From what Chairman Bennett can gather from this discussion, it appears a conference will be held with the judge within 30 to 45 days. Mr. Kozitzky asked when it was filed. Solicitor Grabowski does not know the exact date of filing, however he believes it was approximately 2 1/2 weeks ago. It also depends on which judge has been assigned the case, what his case load is, and whether or not he likes municipal cases. Whatever consolation it is to the neighbors of the Jone's property, Solicitor Grabowski believes the Township will stay on top of the matter, and we will do whatever we can to speed the process along.

An unidentified resident asked when the Township will know which judge has been assigned to the case. Solicitor Grabowski replied a judge is assigned to a case when the appeal is filed, and there has been a judge assigned to this particular case. However, Solicitor Grabowski does not have the document which shows the docket number to determine which judge has been assigned. Also, this does not necessarily mean it is the judge who will hear the case. Solicitor Grabowski explained, internally, judges meet to redistribute cases depending on case loads, or whether there might be a conflict of interest or a host of other reasons. Even though who the Township thinks is the assigned judge, might not necessarily be the judge at that point. Solicitor Grabowski stated the Township will certainly know that when the court order is returned, setting the date for the conference.

G. CORRESPONDENCE - None.

H. SOLICITOR'S REPORT - Mr. Francis X. Grabowski, Township Solicitor - Solicitor Grabowski had nothing to report at this time.

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

1. Santos Subdivision (Minor) - Mr. Michael Yanoff was in attendance, representing Mr. and Mrs. Santos, as well as Mr. Ed Vollberg, engineer from Stout-Taconelli, who can address any engineering concerns the Board may have. This is a minor two lot subdivision with the large parcel owned by the elder Mr. and Mrs. Santos, and the small parcel shown in the corner of the plan to be designated as a separate lot to be conveyed to Mr. and Mrs. Santos' son and daughter-in-law. It is Mr. Yanoff's belief, that with the exception of one or two minor items, the applicant has complied with each and every aspect of the Zoning Ordinance and Subdivision/Land Development Ordinance of Hilltown Township. Mr. Wynn's engineering review letter dated May 5, 1993 was discussed. The erosion and sedimentation plan comment letter was received very recently, with none of those issues presenting any major problems for the applicant. Buffer yard plantings have been revised on the plans, in accordance with Mr. Wynn's review.

With regards to waiver of improvements to the private roadway, Mr. Yanoff believes there was a recommendation from the Planning Commission to grant the waiver of bringing the private road up to Township standards. The private road is the right-of-way which provides an access to the lands of Santos and Tyson. Supervisor Fox questioned the statement made by Mr. Yanoff concerning not requiring the applicant to bring the private road up to Township standards. On August 17, 1992, Mr. Wynn explained, the Planning Commission unanimously recommended a waiver of all improvements to the private road. Mr. Wynn noted that motion occurred at the meeting where the plan was initially discussed. At that time, the Planning Commission also indicated the unanimous approval for the plan scale, which is shown at 1" is equal to 60. Furthermore, the Planning Commission indicated they would not recommend a waiver of the Bucks County Conservation District approval, which was proposed to be waived and received prior to the issuance of a building permit. That is why this is still a condition of the plan approval, to be accomplished before plan recordation.

Mr. Yanoff explained the underlying reason for the request for a waiver of bringing the private road up to Township standards is because the applicant does not intend to offer the roadway for dedication to the Township and it will remain a private roadway. The road will really only serve the proposed subdivided Santos lot. Even private roads which are not to be dedicated to the Township,

Supervisor Fox commented, must meet specific Township standards. Mr. Yanoff stated his clients do not intend to leave the roadway exactly as it is. It was the applicant's concern that they might be required to bring it up to Township public street standards. The applicant does intend to stone the roadway in order to improve it to a better level than it is today.

Solicitor Grabowski mentioned that the applicant has not yet provided the title search information as previously stated. Mr. Yanoff did respond to Solicitor Grabowski's letter, however he believes that letter was faxed in error to the Township Engineer's office. There is a full packet of title information, which has not yet been provided to the Township Solicitor, however Mr. Yanoff would be happy to discuss it this evening and will provide that information as requested. Supervisor Bennington asked if the title search information confirms the applicant's claims to the private road. Mr. Yanoff replied that it does. The history of this private roadway can be traced through previous deeds and dates back to the 1800's, originally being called a "private wagon trail". In Mr. Yanoff's opinion, the rights of all parties here today are fixed in approximately 1974. In 1974, there is a deed from Mr. and Mrs. Tyson in which there is an actual description and a recorded plan which states "...under and subject to a certain 50 ft. right-of-way access to lands of Santos and Tyson". That language is repeated in the title history from 1974 to the present time. It is the exact language, the exact property description, and the exact information that is provided on the Toth (Hawk Ridge) Subdivision plan from which the neighboring residents received their title. The Hawk Ridge property deeds reflect that recorded subdivision plan. Therefore, there is a grant of right-of-way which, in effect, recognizes the private right-of-way that exists back into the 1800's. Now it has been specifically designated as a 50 ft. right-of-way for access to lands of Santos and Tyson, and is recorded in the deeds of those property owners in the Hawk Ridge Subdivision. Mr. Yanoff wished the Board to know that those neighboring property owners have decided to file a lawsuit last week in the Court of Common Pleas of Bucks County in which they allege the designation of the private roadway is a "mistake". Mr. Yanoff explained his client's position is that the right-of-way is here, has been designated as "Swartley Road" in some instances, or as a private road on Township maps, and has been classified that way for many years. The right-of-way also meets the definition of a street in the Hilltown Township Zoning Ordinance and is recorded in the courthouse, as well as on the deeds of those property owners in Hawk Ridge. The neighbors have made allegations with respect to the right-of-way by claiming that the private road is not a "street" by definition and they feel Mr. and Mrs. Santos must again appear before the Zoning Hearing Board.



Mr. Yanoff explained that several years ago, Mr. and Mrs. Santos appeared before the Zoning Hearing Board requesting a variance. During that hearing, Mr. Yanoff believes there were some errors made both in the Santos' representation and the Zoning Hearing Board's representation with respect to interpretation of the Zoning Ordinance. At that time, it was determined, according to the Zoning Ordinance, that Mr. and Mrs. Santos' variance request did not comply. One of the issues presented to the Zoning Hearing Board was whether or not this was a private roadway. No appeal was taken from that denial of the variance. The plan currently before the Board of Supervisors is a new plan because the circumstances have changed. Mr. Yanoff cited Section 259 of the Zoning Ordinance, providing the definition of a "street", which states "A public or private way used or intended to be used for passage or travel by motor vehicles. If private, such way must be used or intended to be used, as a principal means of access to an abutting lot or lots, or to more than two dwelling units or lots in which a private way is exclusively used". The interpretation of this definition is where Mr. Yanoff believes the Zoning Hearing Board made their mistake by denying Mr. and Mrs. Santos' original appeal.

If this proposal is approved, Mr. Yanoff noted there are three lots utilizing the private road as their primary means of access. Therefore, Mr. and Mrs. Santos satisfy both ends of the definition of a "street" in the Zoning Ordinance. The neighbors who are protesting the Santos Subdivision believe the applicant must again appear before the Zoning Hearing Board to correct the original decision. Mr. Yanoff believes his client does not have to because they did file a brand new plan, and the change occurred by adding Mr. and Mrs. Ritchie's lot. This change took place after the Zoning Hearing Board decision, but before the present Santos Subdivision application was submitted to the Township. When the Township Engineer's office, the Board of Supervisors, and the Planning Commission review the proposed Santos Subdivision, they will see that there are no outstanding zoning issues remaining, because the applicant complies with the Zoning Ordinance. If there are no zoning issues, Mr. Yanoff wondered why the Santos family should have to appear again before the Zoning Hearing Board. Mr. Yanoff believes this plan complies with the Zoning Ordinance in terms of street definition, believes it will comply if the waiver is granted concerning improvements to the street, and believes it complies with the definition of a street according to the Subdivision/Land Development Ordinance, as well. Mr. Yanoff reminded the Board that if the public access roadway is recognized as such, there is 25 ft. on the neighbor's side of the center line, and 25 ft. on the Santos' side of the center line. This then makes a 50 ft. roadway which complies with the Subdivision/Land Development Ordinance, and therefore the Santos Subdivision complies in all respects to Hilltown Township's regulations.

1591  
Page 34  
Board of Supervisors  
May 24, 1993

The only remaining issue is whether this right-of-way still exists, and it is Mr. Yanoff's opinion that it does.

Mr. Mark Clem was in attendance representing the concerned neighbors of the proposed Santos Subdivision. Mr. Clem originally represented these same neighbors when the Santos appeal was before the Zoning Hearing Board several years ago, and therefore is somewhat familiar with this case. In order to determine whether this is a valid access, Mr. Clem believes review of the original Zoning Hearing Board decision is in order. At the time of that decision, the applicant basically presented the same plan that has been presented now. It may be on a new piece of paper, but Mr. Clem feels it is essentially the same plan. At the time of the original Zoning Hearing, the Zoning Hearing Board deliberated and rendered a decision, a decision which Mr. Clem's clients believe was the correct decision. To suggest at this time that because the applicant feels they no longer need to be bound by that decision, it can now simply submit a new plan, is not a correct statement of the law. The Zoning Hearing Board in this Township has as much validity as any other body that renders a decision, and the decision they rendered affects this and the neighboring parcels. Therefore, to suggest that the applicant in this case can simply decide on it's own that it is no longer bound by the original decision, abrogates the authority of the Zoning Hearing Board. Mr. Clem believes if there is an adverse Zoning decision, the applicant must again appear before the Zoning Hearing Board in order to remedy that decision.

The condition that supposedly changed is the fact that Mr. and Mrs. Ritchie are using this access off Mill Road to reach their property. The fact is, however, that there are only three properties that even have any roadway entering into this "path", including the Ritchies, Mr. and Mrs. Santos, and Mrs. Tyson. Mr. Clem advised Mrs. Tyson does not use that access, and therefore, the situation that supposedly changed really makes no difference. The Ordinance specifically calls for more than two lots taking access, not two or more, and under that definition, the proposal fails. If the Board would like, Mrs. Tyson would be happy to state that she does not utilize that access as a primary means of access to her property. As a matter of fact, Mrs. Tyson seldom, if ever, uses that access. Therefore, that part of the definition of a "street" does not apply.

Secondly, the other portion of the definition of a "street", according to Section 259, deals with a private way (and Mr. Clem's clients do agree that it is private) states "The way must be used or intended to be used as the principal means of access to an abutting lot or lots". That does not suggest that it can be one, two, or even six lots, but rather it means that if there is one lot, the "way" has to be the principal means of access to one lot,

and if there are two lots, it has to be the principal means of access to two lots, etc. Mr. Clem feels that the rationale for this statement is obvious. If there is a private way which runs down one property, another property, and still another property, if it is not the principal means of access for all three properties, then it can not be classified as a street. If it is not one owner's principal means of access, how can there be other property owners with abutting lots imposing upon one particular resident, the use of that "way" as a street. This does not make sense to Mr. Clem and he does not believe it is fair, nor does he believe it is what was intended by this Ordinance. Mr. Clem thinks if the logical interpretation of the Ordinance is used, the fact remains that the applicant in this case does not meet the definition under either alternative.

Mr. Clem feels the applicant is basically attempting to avoid complying with the Ordinance. In order to subdivide, all the applicant has to do is use an existing legal 50 ft. access which they already have, that goes to Mill Road. This is an access which was specifically created to give them a legal access to their property. Mr. Clem believes Mr. and Mrs. Santos have taken it upon themselves to utilize what is not a legal access. No one has complained to date, however that does not give them any rights to that private way. The Santos family has a legitimate access, which the neighbors are suggesting that they use. The access was specifically created in 1974, when the Tysons subdivided and sold the property to the Santos family. Mr. Clem believes there is a rule of law which says if there is a lesser burden, there is no basis for granting a variance that will permit the applicant to do something that is not allowed by the Ordinance.

Mr. Clem presented a plan which was prepared by an engineer, who specifically mapped out where the "tractor path" runs, from Mill Road down to Swartley Road. The importance of that plan is that it establishes the lineal dimensions from Mill Road down to certain points, including the corner of the Santos property and the point where the proposed new lot begins. In addition, it identifies where the current tractor path turns into the Santos property. That is very important, because the fact is that if this private way was ever a street, at most, the street terminated where it turns into the current Santos property. It went no further. The only use that was made of the tractor path that went beyond where the Santos family presently turn into their property, is just that, a tractor path. There are two barely visible ruts that run down into a field which currently terminates in a large pile of brush. At one time, many years ago, this path may have been used by someone with a tractor to gain access from one field to another. Therefore, if the Board accepts everything counsel for the Santos family has said is true, the "street" stops well before reaching the proposed lot. The reason this is important, is because it stops

350 ft. before the tractor path crosses the nearest boundary of the proposed lot, and 600 ft. before the last boundary of Lot #2. This would mean that even if some of that private way is considered to be a street, certainly not the entire length is a street.

Mr. Clem believes the information found during the title search is very important. It is a fact that this tractor path, which has been traced back to the 1800's, was defined by a very specific, finite, ten year grant for one farmer who allowed a neighboring farmer to haul wood in a wagon from one property to another. That ten year grant expired automatically by it's own terms. Down through the years, for one reason or another, in a clause which is referred to as an "Under and Subject Clause", some reference to this path was noted. The Under and Subject Clause is significantly different from a grant. A grant is something in a deed whereby one party gives another party a right. Un Under and Subject Clause merely makes reference to something that may or may not exist.

Supervisor Fox stated Mr. Clem's case belongs in a court of law and has nothing to do with the Hilltown Township Zoning Ordinance. According to the Planning Commission, the Santos proposal meets the standards of a private road, the way the Ordinance is written. The remarks made by Mr. Clem this evening must be proven in a court of law. Supervisor Fox is not saying the Santos' plan is correct, however the plan before the Board shows that almost the entire 50 ft. right-of-way is located on the Santos' property. Supervisor Fox commented the argument concerning the private road does not belong before the Board of Supervisors, but rather it is a legal issue which must be settled in court. The only issue before the Board of Supervisors is whether or not the Santos proposal meets the standards as set by the Zoning Ordinance and the Subdivision/Land Development Ordinance. According to the Planning Commission, it does meet the Township standards, and the Planning Commission also believes the right-of-way is a private road, according to our standards. There has been a change since the original Zoning Hearing Board decision. Supervisor Fox commented Mr. Clem is arguing law before the Board of Supervisors and this is not the place for it. The Board is merely attempting to determine if this proposal meets the standards of our Zoning Ordinance and Subdivision/Land Development Ordinance for a subdivision. This plan, unless the applicant has not accomplished some items required of them, does meet the Subdivision/Land Development and Zoning Ordinance of Hilltown Township, which is all the Board of Supervisors should be ruling on this evening.

Mr. Clem advised neither the Board of Supervisors, nor the Planning Commission, is empowered to interpret the Zoning Ordinance. The definition of a "street" is found in the Zoning Ordinance, which is within the jurisdiction of the Zoning Hearing Board, who has already interpreted whether this is a private road or not. As part

of the Subdivision/Land Development review process, the Board of Supervisors must determine whether the Subdivision/Land Development Ordinance regulations are met. There are a number of reasons why this plan does not meet those regulations, which are fact and not law. Supervisor Fox commented this argument could go on all night. Mr. Clem would just like the same opportunity to present his case as that given to Mr. Yanoff. Mr. Clem pointed out that the Board of Supervisors must determine whether or not this proposal meets the Subdivision/Land Development regulations with an appropriate access. Mr. Clem would submit that precisely because this matter is in litigation, it would be ill advised to make a decision granting a subdivision at this time with the possibility that six months or a year from now, the court might determine that this private way is not an appropriate access. Also, with regards to the Subdivision/Land Development regulations, there are certain requirements which must be met. The waiver of the public street requirement is not the only waiver the applicant is requesting. To gain access to the lot Mr. and Mrs. Santos are proposing, the private way is more than 500 ft., which means the applicant must request permission to construct a cul-de-sac. According to the Subdivision/Land Development regulations, the site would require a cul-de-sac because there is no connecting road. Mr. Clem cited Section 405B of the Subdivision regulations, which states that for a lot that is 50,000 sq. ft. in size, where there is less than a ten acre lot, there must be a 24 ft. cartway and a 50 ft. right-of-way. These are just a few of the waivers the applicants will require.

Mr. Wynn noted these same issues were discussed at a previous Planning Commission meeting. The Section Mr. Clem read includes the standard for "Public Street/New Road - 50,000 sq. ft. lots", which is not the case concerning the Santos Subdivision. These standards are for a public street, not for a private street. Mr. Clem asked if there are standards for a private street. Mr. Wynn replied that there are not, and he advised of that at a Planning Commission meeting. Mr. Clem stated it does not state any where in Section 405 that the standards are for a public street, rather it states the standards are for new streets. Mr. Wynn asked if this is a new street that is being discussed. Mr. Clem replied that it is a new street. Mr. Wynn noted everyone has been saying all along that this street has existed for many years. Mr. Clem commented it is not a street, it is a private way. Mr. Wynn asked why Mr. Clem is then referring to Section 405 which speaks of new streets, if this is a "private way". Mr. Clem asked if this is indeed a street, why does it not have to meet the provisions concerning streets, under the Subdivision/Land Development Ordinance regulations. Mr. Wynn replied if this is a street, it is not a new street, and therefore these regulations would not apply.

Mr. Wynn noted Section 404 of the Subdivision/Land Development Ordinance speaks of existing streets and improvements to existing streets, and that was recommended as a waiver by the Planning Commission. Further, Mr. Wynn explained this plan is not creating a cul-de-sac street. Mr. Clem argued by definition, what the applicant is proposing is a cul-de-sac street because it is over 500 ft. long and does not connect to another street. Mr. Wynn commented this street is currently existing, and therefore would be covered by regulations in Section 404. Mr. Clem stated while the Board determines whether they should grant waivers to this proposal, the Township still must comply with our own Ordinance dealing with variances. Mr. Clem believes a waiver is nothing more than an ordinance. Therefore, the Township's own Ordinance provides the criteria for granting a variance, which is the same criteria, logically, as a variance at law which would include a hardship that is not self created or assumed that makes a property undevelopable. In this particular case, Mr. Clem feels there is no question that this is purely a financial hardship for the applicant. The Board cannot, under the terms of it's own Ordinance, grant a variance under these circumstances because the Santos' family does have a way of accessing their own property. The only rationale for taking this route is that it is less expensive, and the applicant is seeking a variance on a purely economic basis. Mr. Clem advised that is not good enough, under the Township's own Ordinance, which must be applied. Therefore, for Hilltown Township to grant this variance so that the applicant does not have to install a public road to public standards, Mr. Clem believes violates the Township's own Ordinance. Supervisor Fox advised this Board does not give variances, it gives special exceptions, and none has been given to this proposal. The Zoning Hearing Board is the only body permitted to grant variances. Mr. Clem agreed and noted the Zoning Hearing Board is also the only board permitted to grant special exceptions. Supervisor Fox stated the Board of Supervisors can grant conditional uses or waivers. Mr. Clem argued that a waiver is nothing more than a variance. Supervisor Fox disagreed, stating that the Supervisors do not consider a waiver to be a variance in the same way that Mr. Clem appears to believe. Supervisor Fox advised the difference is the Zoning Hearing Board deals with the Zoning Ordinance, and the Board of Supervisors deal with the Land Development/Subdivision Ordinance. The Board of Supervisors is permitted to grant relief from the Subdivision/Land Development Ordinance. With all due respect, Mr. Clem commented, it is still a variance. Mr. Clem noted there is a Pennsylvania statute that goes beyond what the Township's own Ordinance requires which is the Municipality Planning Code. Mr. Clem cited Section 509 of the M.P.C. which prohibits giving final approval unless the streets shown on the plan have been improved to a mud free or otherwise permanently passable condition, as improved, or as may be required by the Subdivision/Land Development Ordinance.

Page 39  
Board of Supervisors  
May 24, 1993

Mr. Clem explained this tractor path is not mud free, is not permanently passable, and as the Township's own fire chief stated, this roadway is simply not safe in the event of an emergency. Mr. Clem suggested that there is a clear, viable alternative with a legally owned 50 ft. piece of property on Mill Road that has the correct frontage; and complies in all respects with the Zoning Ordinance and the Subdivision/Land Development Ordinance which can be used. Mr. Wynn commented if the applicant were to do what Mr. Clem has suggested, the existing Santos lot would be required to have it's only frontage on the private road. Mr. Wynn explained if you take the 50 ft. away from the existing Lot #1 to create Lot #2, then Lot #1 which contains the existing house has only frontage on the private road. Therefore, nothing will really be changed, since one lot would still remain on the private road and one lot would still remain on Mill Road. Mr. Clem does not see how any one could possibly suggest that this roadway, whether it be a private road or a street, ever continued at any time beyond where it turns into the Santos property. Mr. Clem stated it was never utilized for vehicular traffic to get to a lot with a residential dwelling beyond where it turns into the existing Santos lot. Mr. Wynn noted he drove that roadway from Swartley Road to Mill Road, when he first inspected the Toth property for the Hawk Ridge Subdivision, and it was passable. Mr. Clem commented driving once down that road does not constitute a means of access as defined under Section 259 of the Zoning Ordinance. It does not mean a public or private way intended to be used for passage or travel by motor vehicles, and if private, intended to be used as the principal access. Mr. Clem does not believe that a Township official driving down the road once meets that definition. Mr. Wynn commented he was not attempting to suggest that it met the definition, just that the roadway is passable.

Despite the fact that this proposal is presently in the Court of Common Pleas with an appropriate quiet title action, Mr. Clem stated this is a matter which impacts upon whether the Hilltown Township Board of Supervisors grants subdivision approval to the Santos Subdivision. Mr. Clem believes it would be a mistake at this time to grant approval, based upon the pending lawsuit to determine if this is a private access.

Mr. Yanoff has listened to the interesting things Mr. Clem has told the Board, however there is one issue he cannot allow to stand without commenting on it. Mr. Clem has made an argument that this is a cul-de-sac, yet when one of his clients, the Toth Brothers, closed that road at the end of the Santos property by erecting a mound of stone and dirt. Mr. Yanoff felt it was ludicrous for Mr. Clem to argue that this private roadway should be considered a cul-de-sac street. Mr. Yanoff commented it does not mean that his clients intend to go beyond the end of their property, which is the representation made to this Board by Mr. Clem and his clients.

Mr. Clem stated no one ever suggested that the Santos family meant to go beyond the edge of their property. If Mr. Yanoff had listened carefully to what was said, Mr. Clem commented, it is that the private road as defined under the Ordinance goes no further than where it turns into the current Santos property. Mr. Clem advised when the applicant stated that granting a waiver to bring the roadway up to Township standards would be appropriate because the roadway is not intended for dedication, is impossible since the applicants can not dedicate something to the Township that they do not own. To suggest that they should somehow be permitted to throw stone down on this tractor path and call it a private road is ridiculous, since it will not make it any safer for emergency vehicles, and it will not make it any more of a road. In addition to waiting for DER and Bucks County Conservation approval, Mr. Clem suggested the Board delay approval to the Santos Subdivision.

Solicitor Grabowski does not believe the Township Solicitor's office is the appropriate body to make any comment regarding title searches that either side produces. Solicitor Grabowski does not feel it is his function, nor does he feel it is the function of the Board of Supervisors to get involved in title searches, private rights, and things of that nature. As to the public issue, the definition of a private road is the issue before the Board of Supervisors and how that affects the approval of the subdivision plan. The Planning Commission has given their recommendations to this Board, and Solicitor Grabowski does not feel it is appropriate for him to give the Board his personal opinion of what the definition means. As Solicitor Grabowski has counseled the Board previously concerning this issue, the question the Supervisors must decide in their own minds is whether the Zoning Hearing Board did address this issue when the original decision was rendered. From what Solicitor Grabowski has heard tonight, he believes half the residents present will leave this meeting dissatisfied, and half the residents present will leave this meeting pleased. Solicitor Grabowski believes what ultimately will happen is that a higher, probably more capable body will make the final decision in this matter, no matter what the Board of Supervisor's decide. As far as the legality of this matter, Supervisor Fox does not believe this matter has anything to do with Hilltown Township. It is a court decision. Solicitor Grabowski commented there is nothing in Hilltown Township's Ordinances which gives the Board the right to review private rights. Supervisor Bennington clarified that what Solicitor Grabowski is saying is that the Santos proposal conforms to the Zoning Ordinance, and the matter is basically a legal issue which should be decided in court, and therefore, the Supervisors should approve the Santos Subdivision with the conditions as specified by the Planning Commission recommendations. Solicitor Grabowski agreed, although he advised it is not his decision to make.



Page 41  
Board of Supervisors  
May 24, 1993

Supervisor Fox asked Mr. Wynn what items remain outstanding on the Santos Subdivision. Mr. Wynn replied the remaining items to be accomplished include the verification of approval of the Erosion and Sedimentation Control Measures from Bucks County Conservation District, dedication of the ultimate right-of-way of Mill Road to the Township, installation of 2 1/2 inch caliper Class A Buffer trees, and also the hedge as shown on the plan, installation of property monumentation as shown on the plan, certification by the responsible surveyor and verification of approval of Planning Modules from DER.

Supervisor Bennington asked what would happen if the courts do rule in favor of the concerned neighbors. Solicitor Grabowski replied depending on the Board's decision, he is sure the one of the parties will seriously consider filing an appeal. If the Board were to find in favor of the Santos Subdivision, Solicitor Grabowski is sure the neighbors will consider not only pursuing it's current lawsuit involving the title search, but also consider filing an appeal of the plan. If that is the Supervisor's decision, perhaps those two matters could be consolidated before one judge. Therefore, Supervisor Bennington commented the suit will wind it's way through the court system, and the subdivision will not be permitted to proceed until a decision is finalized. Solicitor Grabowski noted the applicant could possibly proceed at their own risk, and Mr. Clem probably has other avenues available to him to "muddy the waters" even further in private actions that do not necessarily involve Hilltown Township. Mr. Clem noted that is part of the problem because there may be a private action involving the Township if the Santos Subdivision is granted by this Board, should the courts find in favor of the neighbors. Solicitor Grabowski reminded the applicant that in order to do any type of construction, permits must be applied for, and the neighboring residents do have the ability to contest the issuance of permits.

Supervisor Fox asked what right the Township has to deny the Santos Subdivision as long as they are in compliance with the Hilltown Township Zoning Ordinance and Subdivision/Land Development Ordinance. Mr. Clem noted if this Board denies the Santos application because they do not feel they can take the risk with a suit pending in court, the applicant will have that right to appeal. Supervisor Fox stated the Santos revised plan which was submitted to the Township on April 15, 1993 shows that the entire driveway, except for a small portion, is located on the Santos property. Actually, Mr. Clem replied, all the Santos family has is a 25 ft. wide easement on one side of the Santos property which is no where near the tractor path they are currently using. Supervisor Fox noted the plan before this Board says differently. Mr. Clem may take a copy of this plan into court and do whatever he feels is right, but that is his problem, not the Township's

problem. Mr. Clem believes the Township Engineer would confirm that the Santos' legal 25 ft. easement is located where there are tall trees which line Mrs. Tyson's property, the area between Mill Road and the driveway to the existing Santos home, however that is not where the tractor path is located. Mr. Wynn replied the roadway that Mr. and Mrs. Santos are utilizing at present has been in existence long before there was a subdivision of the Toth property. Mr. Clem noted that does not give the Santos' rights to use it. Mr. Wynn stated he is just saying it has not changed, it has always been there. Mr. Clem advised the tractor path is not in an easement and is privately owned by Mr. and Mrs. Ritchie. Mr. Clem wondered if the Board of Supervisors will order Mr. and Mrs. Santos to tear their home down if it is constructed before the court might rule in favor of the neighboring residents.

Based upon the Township Engineer's comments, and recommendations by the Planning Commission, motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to grant a waiver for street improvements to the private road for the Santos Subdivision as recommended by the Planning Commission, and to grant conditional final approval to the Santos Subdivision, pending completion of the five outstanding items, based upon the plan which was submitted to the Township, and because the plan does meet the Hilltown Township Zoning Ordinance and Subdivision/Land Development Ordinance.

2. Accu-Sorts Systems, Inc. (Preliminary/Final) - Mr. Wynn explained this industrial building is located on Schoolhouse Road, and was constructed in sections, with the latest shown on the plan as the "existing addition", which was constructed with a site development plan in 1986. At this time, a two story, 20,000 sq. ft. addition has been proposed on the rear of the building. The site is served by public sewer by the Telford Borough Authority, and there is a proposed retention basin to be constructed in the rear of the property. Currently, the building is served by private water, however the plan proposes connection to public water according to Hilltown Township Subdivision requirements. Since it is a labor intensive business, the site includes 400 parking spaces for the employees. This plan was recommended for preliminary and final plan approval by the Planning Commission, subject to five conditions. Those conditions include verification of approval of the proposed public water connection and payment of fees for same, verification of approval for the payment of all fees to Telford Borough Authority for the public sewer facilities, verification of approval of Erosion and Sedimentation Control Measures from the Bucks County Conservation District, execution of an Escrow Agreement for public improvements for erosion control and landscaping for the retention basin, as well as some minor engineering and drafting items.

Page 43  
Board of Supervisors  
May 24, 1993

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to grant final approval to the Accu-Sorts Systems, Inc. plan, with the conditions as set forth by the Planning Commission.

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

1. Hilltown Village Subdivision - The maintenance period for the Hilltown Village Subdivision expires tomorrow, May 25, 1993. Mr. Wynn advised the Board that Hilltown Village Subdivision did not successfully complete the maintenance requirements, and they are still bound to replace and straighten the trees, which the developer is aware of.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously stating that the Hilltown Village Subdivision did not successfully complete their 18 month maintenance period requirements.

2. Owen Rice Subdivision - This site is located on the corner of Hayhouse Road and Blooming Glen Road. Mr. Wynn explained the developer had installed some street trees and regraded the edge of the roadway and the grass swale. The Owen Rice Subdivision maintenance period expires this week, and Mr. Wynn would recommend the Board approve a motion accepting the successful completion of the maintenance period.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the successful completion of the Owen Rice Subdivision 18 month maintenance period, as completed.

3. Used Police Vehicle Bids - Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize advertisement of the used police vehicles for bid.

K. LINENS FOR SIGNATURE -

1. Jerry's Auto Body

L. RESIDENT'S COMMENTS -

1. Chief George Egly advised a meeting was held last Thursday concerning the March for Jesus, and it was determined that a minimum of 25 fire police has been requested. At this time, Chief Egly has one possible candidate, and the steering committee for the March for Jesus has none. The deadline is June 1, 1993 to recruit the 25 fire police or the March for Jesus will not take place.

Also, with regards to the D.A.R.E. Program which has received a great deal of press recently, Chief Egly noted the Hilltown Township Police Department has been involved with the D.A.R.E. Program for five years. The first three years, the Township received no monies at all, the fourth year the Township received salaries, and now the Township is receiving total compensation. The state of Pennsylvania has advised the Pennridge School District not to apply for grants concerning the D.A.R.E. Program because they intend to utilize those monies elsewhere in the state. Pressure is needed on the legislators to correct this matter, but if that is not rectified, Chief Egly asked the Board if the D.A.R.E. Program might continue, as it did for the first three years, without compensation. Chairman Bennett commented the program appears to be a very worthwhile program. Chief Egly feels the D.A.R.E. Program is the best program with regards to young people, and he is 100% behind it. Chairman Bennett asked the estimated cost if Hilltown Township were to continue with the program. In the past, Chief Egly replied, the only cost to the Township was Sgt. Ashby Watts' salary, because monies to fund programs, tee shirts, coloring books, etc. was donated by area businesses. Chairman Bennett recalls reading that the state gave the school district \$22,000.00, which is what will be taken away. Chief Egly agreed, and stated Hilltown Township received approximately \$7,000.00 of the \$22,000.00. Discussion took place concerning the Program, and the Board agreed to continue the D.A.R.E. Program.

2. Mr. John Snyder stated the D.A.R.E. Program is an excellent program. He has personally been involved with the D.A.R.E. Program along with Sgt. Watts, visiting the three local elementary schools.

Also, Mr. Snyder commented tonight's meeting proved to be very interesting.

M. SUPERVISOR'S COMMENTS - None.

N. PRESS CONFERENCE - No reporters present at this time.

O. ADJOURNMENT - Upon motion by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously, the May 24, 1993 Board of Supervisor's meeting adjourned at 11:55PM.

Respectfully submitted,

*Lynda Seimes*

Lynda Seimes  
Township Secretary

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