

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

The meeting of the Hilltown Township Board of Supervisors was called to order by Chairman William H. Bennett, Jr. at 7:36PM 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 announced the Supervisors and Township Solicitor met in Executive Session with the Township Solicitor prior to this meeting to discuss legal and personnel matters. Also, this meeting will be adjourned at 8:00PM for an advertised public hearing concerning the Holding Tank Ordinance.

A. APPROVAL OF MINUTES: Action on the minutes of the January 25, 1993 Board of Supervisor's Meeting:

Chairman Bennett asked if the Pearl Buck Foundation has been officially notified regarding the key lock box. Mr. Horrocks sent correspondence to the Pearl Buck Foundation. Following that, Mr. Horrocks received a phone call from them advising a master key had previously been offered to the fire company, and asked if that solution would be sufficient. Mr. Horrocks replied that as long as the fire department could gain access to the building to respond to an alarm, a master key would be fine. The issue has since been resolved between the fire company and the Pearl Buck Foundation.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the minutes of the January 25, 1993 Board of Supervisor's meeting, as written.

Action on the minutes of the February 8, 1993 Board of Supervisor's Worksession Meeting:

Supervisor Fox noted a correction on page six, paragraph three, which should read "Concerning paving throughout this project, Supervisor Fox explained for commercial and industrial uses, it is contained in the Zoning Ordinance, under Section 521, that any commercial or industrial building which has more than three employees, must pave with a substance similar to asphalt."

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

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B. APPROVAL OF CURRENT BILLING: Chairman Bennett presented two Bill's Lists for the Board's approval. The first Bill's List is dated February 3, 1993. The total of regular payments is \$88,743.01, with State Highway Aid payments in the amount of \$5,002.70, for a grand total of \$93,745.71.

Supervisor Fox asked if the bills from Ridge Auto Parts, Inc. are for repair of maintenance vehicles. Mr. Horrocks replied that those bills are for repair of Public Works Department vehicles. Supervisor Fox questioned the bill from C.A.E., Inc. in the amount of \$120.00. Mr. Horrocks believes that bill was for a high wattage cigarette lighter plug adapter for a temporary spotlight. He will check into it. Chief Egly replied this bill was for two cigarette lighter plug adapters purchased for police vehicles.

Supervisor Bennington questioned the bills for dental services, which he believe should come under the umbrella of Trustees' Insurance beginning in 1993. Mr. Horrocks replied that is correct, but only for Administration and Public Works Department personnel, not Police Department personnel, per their contract.

Chairman Bennett questioned the bill from Keystone Sign Supply in the amount of \$3,258.58 for breakaway posts and miscellaneous. Mr. Horrocks explained that was for a year's supply of items.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the Bill's List dated February 3, 1993, subject to audit.

Chairman Bennett presented the Bill's List for the period ending February 17, 1993. The total of regular payments is \$16,068.38, with State Highway Aid payments in the amount of \$3,403.47, for a grand total of \$19,471.85.

Supervisor Fox asked for an update on bills received from Pennridge Wastewater Treatment Plant. Mr. Horrocks replied it is now a monthly bill, though in the past it was a quarterly bill. In November of 1992, P.W.T.A. increased their costs rather significantly, which is reflected in these monthly bills. Hilltown Township is being charged by Pennridge Wastewater to process our waste through their system.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the Bill's List dated February 17, 1993, subject to audit.

C. TREASURER'S REPORT - Mr. Bruce Horrocks, Township Manager - Mr. Horrocks presented the Treasurer's Report with the following balances as of February 22, 1993:

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|                                          |               |
|------------------------------------------|---------------|
| General Fund Checking Account            | \$ 90,618.16  |
| Payroll Checking Account                 | \$ 440.53     |
| Fire Fund Checking Account               | \$ 53,993.57  |
| Debt Service Investment Checking Account | \$ 7,385.49   |
| State Highway Aid Checking Account       | \$ 41,825.56  |
| Escrow Fund Checking Account             | \$ 128,318.02 |

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve the Treasurer's Report, dated February 22, 1993, subject to audit.

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

E. CONFIRMED APPOINTMENTS:

1. Ms. Katharine Watson - Bucks County Highway Safety Program - Ms. Watson is the director of Bucks County's Highway Safety Program. This is a grant program, funded through PennDot with federal monies, and is an "arm" of the U.S. Department of Transportation's National Highway Traffic Safety Administration. In 1992, Ms. Watson explained, the Bucks County Highway Safety Program participated and acted as an agent for that national organization in what is called the "70% Honor Roll". The 70% Honor Roll is for businesses or community groups containing one hundred or more members. Unannounced and during two separate occasions, Ms. Watson or her assistant would visit the site and survey the employees or members to determine if they were properly restrained by wearing seat belts when arriving at the business. The idea is to have 70% seat belt usage of the total employees surveyed. If the particular group had been surveyed above 70% on both visits, they were eligible for the national award. This program had been on-going for quite awhile before it was realized that the requirement of one hundred or more members would automatically eliminate police departments, because aside from major cities, small communities would not have one hundred or more members in their police departments. Therefore, the federal government made an exception to allow police departments of any size to participate.

Ms. Watson is here this evening because Hilltown Township Police Department, under the direction of Chief George Egly, decided to participate, was surveyed, and was found to be above 70% both times. This award is important because everyone wants to see the police officer stay safe. All of the national statistics from their police chief's associates show that officers are more likely to be injured or killed on the job in a police vehicle crash, than in most any other instance.

Ms. Watson is present this evening, on behalf of the Bucks County Highway Safety Program, and on behalf of the National Highway

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Traffic Safety Administration, to award Hilltown Township Police Department the 70% Plus Safety Belt Use Award.

Chief Egly and the Board thanked Ms. Watson and the Bucks County Highway Safety Program for this award.

2. Mr. Mark Crawford - Sand Mound System - Mr. Mark Crawford of 906 Green Street has an approved building lot on Green Street. After having soils work completed last September, which failed, Mr. and Mrs. Crawford have decided to put down topsoil for a sand mound system. Mr. Crawford wondered if it is possible to obtain a building permit immediately after the topsoil is put down. Per DER regulations, Mr. Wynn replied a building permit can not issued in these instances until a permit has been issued for a septic system, and that is only if the site passes four years from now.

Mr. Crawford asked if there is a temporary system which could be constructed prior to the four year approval. Mr. Wynn stated there is not a temporary system available for a private residence. Mr. Crawford had met with DER, who advised they would approve a package type system. Mr. Wynn explained the applicant will have to go through the process of an Act 537 Revision to receive Planning Modules from DER. Those Planning Modules must be submitted to not only the Hilltown Township Planning Commission, but to the Bucks County Health Department, the Bucks County Planning Commission, and Pennsylvania DER. Before the applicant could obtain approval from the Township, and if that process moves ahead smoothly, there will be a requirement to financially guarantee the cost of the replacement system.

\*8:00PM - The regular meeting of the Hilltown Township Board of Supervisors was adjourned at 8:00PM to begin the advertised Public Hearing for the proposed Holding Tank Ordinance.

Solicitor Grabowski explained the proposed Ordinance was advertised in the Perkasie News Herald. Copies were on file with the News Herald, the Bucks County Law Library, and the Hilltown Township office. Rather than reading the lengthy Ordinance, word for word, Solicitor Grabowski read a paragraph from the Township Engineer's letter dated October 8, 1992, addressed to Mr. Horrocks, which follows:

"The current Holding Tank Ordinance of Hilltown Township, #83-3, and it's accompanying Resolution, #83-20, are out of date, due to revisions to Pennsylvania Department of Environmental Regulations that have occurred since 1983. Most notably, permanent holding tanks are now permitted for Commercial, Industrial, or Institutional uses where daily flow is 400 gallons or less. Initially, the Resolution has been updated to exclude temporary, portable retention facilities at public gatherings, as permitted

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by DER regulations. Because holding tanks in 1983 were only permitted on a temporary basis, Resolution #83-20 required a great deal of additional information necessary for review of temporary holding tanks during an Act 537 planning module review. The proposed Ordinance and Resolution before the Board this evening deal with holding tanks which are not required to go through Act 537 revision process, as well as temporary holding tanks after the Act 537 revision has been approved."

Solicitor Grabowski commented there was an application to the Township at some point for a permanent holding tank at a non-residential use. An application was filed at the Bucks County Health Department for installation of a permanent holding tank. The Bucks County Health Department had indicated they would not be able to issue a permit to install the permanent holding tank, since Hilltown Township did not have the new regulations incorporated into the Holding Tank Ordinance. Mr. Wynn noted that application was made by Thornton Motors, but since that time, the applicant has received authorization to continue using the existing septic system.

Solicitor Grabowski advised the proposed Holding Tank Ordinance contains a large amount of technical information. If any one should have questions regarding the technical data, Solicitor Grabowski referred them to the Township Engineer, C. Robert Wynn.

If the Board should consider the adoption of the proposed Ordinance, there is also a an accompanying Resolution, which Mr. Wynn has prepared, speaking of the process by which applications are obtained through the Township, and the establishment of fees.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to adopt Ordinance #93-1, the Holding Tank Ordinance, and to adopt the accompanying Resolution #93-13, regarding Holding Tanks.

\*The Public Hearing for adoption of the Holding Tank Ordinance and Resolution adjourned at 8:05PM, and the Board of Supervisors reconvened their regularly scheduled meeting at this time.

3. Ms. Helen Berdell - Street Name Change Request - Ms. Berdell, who lives at 738 East Walnut Street, was in attendance to request that the name be changed for the yet to be constructed access road to Pleasant Meadows. This road will take access on Hillcrest Road. Ms. Berdell has lived in her home for 42 years, and during that time, has had her address changed four times. Ms. Berdell would like the access road to Pleasant Meadows to be named after her father - Mr. Oscar Schmidt. Ms. Berdell's father immigrated to Pennsylvania from Germany in 1910, with the idea of working, saving money, and eventually returning to his homeland to

purchase a farm. However, Mr. Schmidt fell in love with this country, it's ways and privileges, and decided never to return to Germany. Mr. and Mrs. Schmidt purchased a farm where the development of Pleasant Meadows now exists. Ms. Berdell felt it would be fitting to name the access road "Schmidt Drive" in honor of her father, who raised his family and died on the farm whose property now consists of the Pleasant Meadows development.

Chairman Bennett asked if Ms. Berdell had considered this suggestion when Pleasant Meadows was first constructed. Ms. Berdell did consider this, however she believed that only she and her children would really have an interest in this issue. Chairman Bennett wondered how the present residents of Steeplebush Drive would feel about a street name change. Supervisor Fox stated there are many residents living on Steeplebush Drive and all of the Township maps are marked as "Steeplebush Drive". Supervisor Fox felt it would create quite a problem for those residents to change their address to "Schmidt Drive". Supervisor Fox suggested that the bridge through the Pleasant Meadows development be named after Ms. Berdell's father. Another suggestion made by Solicitor Grabowski was to name the open space area of Pleasant Meadows after Mr. Schmidt.

The Board will take this matter under advisement and will notify Ms. Berdell of their decision.

4. Mr. Bill Godek - H & K Agreement - Before Mr. Godek began speaking, Chairman Bennett reminded him of the five minute time limit in which to speak, and advised that the Board of Supervisors have previously reviewed the 1981 agreement with Haines and Kibblehouse.

Mr. Godek asked what the Township Solicitor has advised the Board of Supervisors about the H & K Quarry agreement. Because of the "Sunshine" requirements of State law, Solicitor Grabowski replied, this will be the first public discussion of this matter as a result of an investigation by himself and Mr. Horrocks. On February 15, 1993, Mr. Horrocks invited Mr. Haines and Mr. Kibblehouse to a meeting at the Township building, for discussion regarding the 1981 agreement, and the history of litigation which took place during the late 1960's, the 1970's and a portion of the 1980's. The Supervisors were invited to attend this meeting, however since it was a private meeting, the Board did not take part in the discussion itself. As a result of this discussion, Solicitor Grabowski and Mr. Horrocks learned valuable background information from Mr. Haines and Mr. Kibblehouse, concerning the litigation which took place, what some of the provisions were, and why they were considered significant by the Township at that point. Solicitor Grabowski stated he and Mr. Horrocks are not particularly understanding as to why Section 8 and Section 22 say what they say.

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Section 8 speaks of a concrete plant and an asphalt plant which existed in 1981 at the Blooming Glen site. The provision provided that if either of those plants were to be moved to the Skunk Hollow quarry site, the other plant would have to accompany it within 18 months.

One plant has been moved to the Skunk Hollow quarry site. Mr. Godek appeared before the Board several weeks ago to ask when the second plant would be moved from the Blooming Glen site to the Skunk Hollow quarry site. Solicitor Grabowski does not understand the intent of the language found within Section 8 of the agreement, and asked Mr. Haines and Mr. Kibblehouse, who also did not seem to know the answer.

Since that meeting, there are certain alternatives that the Board of Supervisors can follow. One alternative is to require strict literal compliance with the agreement, another is to ignore the agreement, and another possible alternative is to make a fresh determination as to whether Section 8 and Section 22 are still valid, twelve years later.

Mr. Horrocks and Solicitor Grabowski recommended that perhaps the Board of Supervisors should review the language of the agreement. One issue of concern is the traffic impact a literal interpretation of the agreement will have in this day and age. Possibly the Supervisors might wish to consider directing the Police Department to conduct a traffic feasibility study and a traffic impact study as to the impact which will result in the Blooming Glen area and the Skunk Hollow area should the Board require literal enforcement of Section 8 of the agreement. Another option to consider is a review by the Planning Commission for possible changes to the agreement.

Solicitor Grabowski and Mr. Horrocks believe there should be a six month period of time within which the Police Department and the Planning Commission should be assigned the task of reviewing the agreement, perform the request for traffic studies, and report back to the Board with those findings. After that time, the Board can hopefully make a decision on which course of action to take.

It is Solicitor Grabowski's opinion that agreements and contracts can be amended, providing both parties agree. Mr. Haines and Mr. Kibblehouse were not asked if they would agree to an amendment, since that would have been premature, as it is a decision for the Supervisors to make.

Chairman Bennett felt that establishing a six month time period to complete the tasks at hand was reasonable.

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Supervisor Fox asked if the six month time period to conduct a traffic study would be established due to the increase of quarry traffic during summer months. Solicitor Grabowski and Mr. Horrocks both believe that there is a definite increase in traffic patterns entering or leaving the quarry during warmer months. The winter is a slow period, and the economy is also slow at this time of year, which is another reason why six months would be the minimum period of time within which the Police Department might be asked to conduct their studies. Solicitor Grabowski feels the Supervisors will ultimately obtain more realistic figures and statistics if studies are completed during that time period.

Mr. Godek noted that the 1981 agreement with Haines and Kibblehouse is a legal, valid, binding contract, which both parties freely signed. Also, Mr. Godek read a section of the minutes of a recent Board of Supervisor's meeting which states "Supervisor Bennington is willing to amend the agreement if it is to the benefit of the Township, not just one individual". Mr. Godek asked who that "one individual" is, and commented if it refers to him, he feels rather honored that the Township signed this agreement in 1981 just for him. Mr. Godek believes the Township signed this agreement for the health, welfare, and benefit of all Hilltown Township residents.

Mr. Godek commented the question to be answered by this Board tonight is did the agreement state that within the 18 month time frame both plants shall be located at one site only. Mr. Godek would like the answer to that question produced in writing, so that he may show that information to his neighbors to demonstrate what the residents of this Township are paying for and what the interpretation of this agreement is. Also, not only was it Section 8 and Section 22 of the agreement which Mr. Godek questions, but also Section 20 of the agreement. Again, Mr. Godek asked if H & K Quarry is in violation of the signed agreement.

Supervisor Fox advised there are many new residents in that area of the Township, and he would like to know the amount of traffic going into that area. Supervisor Fox recommended that a public hearing be held, after the traffic study has been conducted, to determine what is best for the majority of the community. A decision could be made by the Board following that public hearing.

Solicitor Grabowski advised his job is to work for the Board of Supervisors. The Board asked Solicitor Grabowski to review the agreement along with Mr. Horrocks, and he has met with Mr. Haines and Mr. Kibblehouse in order to do this. Mr. Godek, as well as the Board of Supervisors, knows what the agreement says, however the question as to whether H & K is in violation can only be decided by a judge, not by the Township Solicitor. Solicitor Grabowski feels that twelve years after the original agreement was signed, the Board of Supervisors may wish to decide whether this agreement

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is still in the best interest of Hilltown Township as a whole. In light of that, the suggestion of a traffic impact study and a planning study has been made. Once that information is received, and if this Board decided to enforce the strict interpretation of the agreement, that is what will be done. Mr. Godek asked what the "strict interpretation" of this agreement is. Solicitor Grabowski suggested Mr. Godek visit the Bucks County Courthouse and ask a judge for the answer to that question.

Mr. Godek stated he has seen enough "stonewalling" going on in this Township, through various Boards of Supervisors. If the Board wishes to change the agreement because times have changed, that is fine. However, Mr. Godek feels there was an agreement that was signed a number of years ago, which was not just for his benefit, but for the benefit of the Township as a whole, and he believes that agreement should be honored. In December of 1990, an asphalt plant was moved from the Blooming Glen site to the Skunk Hollow site. At a previous Supervisor's meeting, it was mentioned that the asphalt plant was moved due to more stringent regulations being enforced. Mr. Godek is looking for honesty in government, not side-stepping of the issue, whether he likes the answer or not. Mr. Godek does not believe he has seen honesty in this Township, and feels that is a very bad impression to leave with the public. Mr. Godek feels that the Supervisors of this Township try to do things behind the citizen's backs, do not answer questions honestly, and attempt to stall or prolong issues. Mr. Godek is not against the proposed change in the agreement, however he is against the way it is being done. Mr. Godek again asked the Board to have the answer he requested submitted to him in writing, by the Township Solicitor.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to conduct a traffic impact study, obtain a review of the quarry agreement by the Planning Commission, and hold a public meeting with the residents of Broad Street and the Skunk Hollow quarry area within six months, so that a final determination can be made concerning the H & K Quarry agreement.

F. MANAGER'S REPORT - Mr. Bruce G. Horrocks -

1. At the Supervisor's meeting of March 22, 1993, the Board will approve the minutes of this meeting, and Mr. Horrocks stated that will be the only written response to Mr. Godek's question from the Township Solicitor concerning this issue. If Mr. Godek would like any further information from the Solicitor, Mr. Horrocks would like direction from the Board of Supervisors at this time. Supervisor Bennington felt the minutes of this meeting were sufficient, and the Board agreed.

2. On Friday, February 19, 1993, at 2:00PM, bids for the purchase of two police vehicles were opened at the Township Building. A bid was received from A & T Chevrolet in the amount of \$12,763.53 for each vehicle. A bid was also received from Pacifico Ford in the amount of \$12,660.00 for each vehicle. Even though A & T Chevrolet's bid was approximately \$100.00 higher than Pacifico Ford, Chief Egly recommended A & T Chevrolet's bid be accepted in order to stay with chevrolents because the same equipment, racks, back seats, etc. are interchangeable between same make vehicles.

It is both Mr. Horrocks and Chief Egly's recommendation to award Bid #93-1 for the purchase of two police vehicles to A & T Chevrolet.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the bid (Bid #93-1) from A & T Chevrolet in the amount of \$12,763.53 per vehicle, to purchase two police vehicles.

3. Mr. Horrocks presented the following six Escrow Releases for the Board's approval. All are bank held Letters of Credit:

|                   |             |             |
|-------------------|-------------|-------------|
| Fretz             | Voucher #02 | \$ 352.55   |
| Country Roads     | Voucher #01 | \$11,484.00 |
| Hager Subdivision | Voucher #02 | \$ 987.20   |
| Hager Subdivision | Voucher #03 | \$27,421.65 |
| Hager Subdivision | Voucher #04 | \$ 3,055.89 |
| Orchard Station   | Voucher #29 | \$26,528.56 |

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

4. The Township has received the resignation of Ms. Samantha Fellman as part-time Zoning Officer, effective February 24, 1993. Ms. Fellman has accepted a full-time zoning position in another municipality in Montgomery County. Mr. Horrocks requested that the Board authorize advertising of the part-time Zoning Officer position. In the interim, Mr. Horrocks suggested the Board continue the appointment of Mr. C. Robert Wynn as the Assistant Zoning Officer, and also appoint Mr. Horrocks as Acting Zoning Officer until the position is filled.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to advertise for the position of part-time Zoning Officer, to appoint Mr. Horrocks as Acting Zoning Officer, and to continue the appointment of Mr. C. Robert Wynn as Assistant Zoning Officer, effective immediately.

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5. Concerning the Derr application to the Zoning Hearing Board, Mr. Horrocks noted the applicants have withdrawn their appeal. The Zoning Hearing Board re-opened to state, for the record, that the applicant has withdrawn and that no decision has been rendered at this time. Mr. Horrocks is asking the Board's direction on how to proceed with this matter.

Supervisor Fox commented this site has been in violation for a long time, and the Township has been over generous by sending seven Cease and Desist letters.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to take this site before the District Justice, for being in violation of the Zoning Ordinance, pending the site inspection by the Zoning Officer.

6. Mr. Buzby has been traveling the Township with someone who is in the guide rail business, to determine specifications on bridges needing guide rail replacements. One estimate was received in the amount of \$33,000.00. Mr. Horrocks requested authorization from the Board of Supervisors to go out on bid for the purchase of either new or used guide rail in the areas Mr. Buzby has specified. This money would be coming from the general road donations money, which does not currently have a designation of where it can be spent. Mr. Bennett asked how much money is available in that fund at this time. Mr. Horrocks replied there is approximately \$85,000.00-\$90,000.00 in that fund at present.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize advertisement of bids for new or used guide rails.

7. Mr. Horrocks requested authorization for Mr. Eric Applegate to attend a DCA Building/Code Enforcement Seminar on April 14, 1993 at a cost of \$30.00.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize Mr. Applegate's attendance at a DCA Seminar on April 14, 1993.

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

1. A permit renewal application from Penna. DER has been received concerning Waste Management of Indian Valley, in response to a permit which DER also put out in October. Further information, corrections, and additions are included in this permit renewal application. The permit is basically a continuation of what is presently going on at Waste Management of Indian Valley.

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2. The Board has received a copy of correspondence from Mr. Wynn to Mr. Douglas May concerning lowering the speed limits through the village of Blooming Glen.

Supervisor Bennington stated a letter has been received from a resident, Mr. Murlow, who suggested that a temporary alternative might be to erect a "Caution - Children At Play" sign beneath the existing speed limit signs.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to authorize "Caution - Children at Play" signs to be erected within the village of Blooming Glen.

Supervisor Bennington directed Mr. Horrocks to contact Mr. Murlow and thank him for his suggestion.

3. Correspondence has been received from Mr. Steve McKenna advising the builders of Country Roads development held a construction meeting on February 13, 1993, inviting neighboring residents of the proposed development to attend. Mr. Wynn noted approximately 25 neighboring residents were in attendance.

4. Correspondence has been received from the Township of Lower Makefield Police Department, dealing with installation of emergency communication systems. Chief Egly explained there are presently two police officers trained in installation, at no cost to the Township, other than for their time.

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

1. Concerning the Country Roads Subdivision, Solicitor Grabowski is in possession of the Development Agreements relating to Phase I, which includes 31 units. All conditions of approval given by Hilltown Township have been complied with by the developer. An Escrow Agreement has been executed by the developer and Bucks County Bank and Trust Company, in the amount of \$473,459.31, which represents the cost of the required improvements in Phase I.

In addition to the Development Agreement and the Financial Security Agreement, Solicitor Grabowski presented a series of Resolutions for the Country Roads Development. The first being to accept the street light petition of the developer, since this subdivision will include various street lights. There is a formal petition by the developer to which the Board must adopt an appropriate Resolution to establish a street light assessment upon all the present and future property owners of the Country Roads Subdivision. There are also separate Resolutions for the acceptance of easements along

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three roadways, including Walnut Street, South Perkasio Road, and Telegraph Road.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to approve and adopt the Development Agreement and the Financial Security Agreement, and to authorize their execution by the Township, for the Country Roads Subdivision.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to adopt Resolution #93-14 to accept the petition for the street light assessment for Country Roads Development, to adopt Resolution #93-15 for the acceptance of easements along Walnut Street, to adopt Resolution #93-16 for the acceptance of easements along South Perkasio Road, and to adopt Resolution #93-17 for the acceptance of easements along Telegraph Road.

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

1. County Line Shopping Center - Final - Mr. Wynn stated the plan was previously approved as a preliminary plan at the December, 1992 meeting. This is Phase I of improvements at the County Line Shopping Center. The plan had some minor items to be accomplished in it's preliminary and final plan stages. At the preliminary stage, the plan primarily required outside agency approvals, most of which have been received by the applicant.

Mr. Wynn noted this is the proposed construction of a retail store on Rt. 113, along the frontage of the County Line Shopping Center, and is Phase I of what will be a two phase development. The second phase of this plan consists of other improvements within the shopping center. The Planning Commission, at their meeting on February 15, 1993, unanimously recommended to approve the final plans subject to four conditions. One of those conditions is that an agreement be executed between the applicant and Township to guarantee future compliance with zoning limits. Mr. Wynn explained that Phase I of the development of the new retail store temporarily increases impervious surface on the site, beyond that which is permitted by the Zoning district. Phase II then removes more impervious surface than is currently being installed, such that the net result is a decrease in impervious surface. The agreement would provide for a guarantee to the Township that Phase II will be accomplished and that there is no violation of the Zoning Ordinance. The second condition is that all fees and charges must be paid to the North Penn Water Authority for public water and the Borough of Souderton for public sewer, prior to the issuance of a building permit. The third condition is that the applicant execute an Escrow Agreement for the public improvements, which include curbing, roadway improvements, retention basin, erosion control,

landscaping, etc. The fourth condition is that the ultimate right-of-way along Rt. 113 must be dedicated to the Township, as offered by notation on the plan. Mr. Wynn noted there is actually frontage on both County Line Road and Rt. 113, however the Planning Commission has recommended that the right-of-way area along County Line Road not be accepted at this time. This is due to existing improvements within that area, consisting of parking area lighting and signage, as well as the fact that there is no construction on that side of the site at this point, and with recognizing that this site will come back as a Phase II plan, at which time that right-of-way can be acquired if it is deemed necessary.

Mr. Wynn has spoken to the Township Solicitor concerning the first condition, which is the agreement for zoning compliance. Solicitor Grabowski explained there was discussion at several Planning Commission meetings about Phase II of the plan, and what type of a guarantee would be needed to insure that the work will be accomplished. Solicitor Grabowski has reviewed a proposed agreement, though as good as it was, it did not provide for a financial guarantee that the work would be accomplished within a certain period of time. One thing to consider is the time period which this plan may require in terms of the completion date. Essentially, once a land development plan or a subdivision plan is approved by the municipality, it has a five year life. Solicitor Grabowski does not know of any other way to provide for a guarantee that Phase II of this plan will be accomplished, other than by some financial arrangement. Neither the developer nor the Solicitor really know what the cost will be on the Phase II improvements at this point, and certainly they do not know what the cost will be at some later date. Solicitor Grabowski and Mr. Wynn have discussed the possibility of a condition which will require posting of cash with the Township. A suggestion might be that if in fact the Phase II requirements are not completed within a certain period of time, perhaps money held in escrow could be utilized by the Township to enforce compliance. Secondly, it could also be used as compensation to the Township as a "penalty", should the work not be done. Solicitor Grabowski is not suggesting that the developer will not complete the work in Phase II of the project, however there may be a successor to the project or there may be a different administration on the Board of Supervisors. Supervisor Fox asked if Solicitor Grabowski would have a suggestion as to the amount of the Agreement. Solicitor Grabowski felt the amount of approximately \$10,000.00 to \$20,000.00 would be sufficient. If the conditions specified in this agreement would be accomplished within the period of time the Board agrees to, the money could be refunded or credited towards the cost of insurance.

Mr. Steve Bennett, engineer for the project, suggested that the amount of money being considered be reconsidered. Mr. Bennett discussed this matter with his client and with the applicant's

solicitor several days ago. The applicant's solicitor believes that several thousand dollars, as opposed to tens of thousands of dollars, would be sufficient to bring an effective action to compel compliance. It should be noted that the Township can collect, through proper actions, on a continuing ongoing basis, a fine for violation of the agreement. Mr. Bennett believes it is important to focus on the issue being addressed by the agreement, which is a temporary overage imbalance in impervious surface of 11,404 square feet. Finally, the applicant has an incentive to complete Phase II of the project, because that phase involves an additional 18,000 sq. ft. of leasable area. The agreement the applicant initially proposed did not speak in terms of the end of the time frame, however he certainly understands the Township Solicitor's concern that a five year time limit be imposed. Mr. Bennett stated there is a device in that original agreement which was imposed so that if this Board felt it was important to have these remaining improvements installed, it would permit the Supervisors to request and compel the applicant to do so within a two year time frame, rather than a five year time frame. Mr. Bennett noted his client is agreeable to the type of formulation he believes the Township Solicitor has just stated, but would readily accept a lesser sum of money, in the range of approximately \$2,000.00 to \$3,000.00.

Solicitor Grabowski hopes he did not confuse anyone to suggest that he was limiting the amount of money to only be used for legal defense. What Solicitor Grabowski suggested was that amount should also be utilized for compensation to the Township in terms of damages. For example, there will be a period of time where there will be non-compliance with the Zoning Ordinance. Theoretically, that is a daily fine of up to \$500.00 per day, which, over a five year time period, would be quite a large sum of money. Solicitor Grabowski advised the figure he quoted was not only to provide the Township with the ability to obtain enforcement, but also that any remaining amounts of money could be used as compensation to the Township for loss of penalties that we would have had. Solicitor Grabowski believes the Township must protect itself from the worst scenario, not necessarily the best scenario.

Ultimately, Mr. Bennett stated, what is being approved in Phase I of this project, is an ascetic component, a circulation component, and a landscaping component, all of which are beneficial to the Township. The developer will be gaining 6,000 sq. ft. of usable space now, and 18,000 sq. ft. of usable space available in the future. Frankly, Mr. Bennett does not believe the developer will walk away from that. There is also the factor of tying the Pizza Hut site into the County Line Shopping Center site, which will be beneficial to the Township. Mr. Bennett is encouraging the Board to take another look at the amount of money proposed by the Township Solicitor, in terms of what is at stake here, which is not a matter of public safety. The issue at hand is already taken care

of in the practical sense through stormwater management, and is strictly a technical violation of the wording of an Ordinance.

Supervisor Bennington commented if the applicant establishes an interest bearing escrow account, and they intend to eventually comply, they will be receiving the money back, with interest, in the future. If Mr. Bennett had any inclination that the dollar figure proposed by the Township Solicitor and Engineer was in the realm of what has been discussed this evening, he would have spoken further to his client about this matter. It is the concern of Mr. Bennett's client that assets will be tied up in escrow for a period of time.

Mr. Wynn noted that this plan does not require action by the Board this evening, and it may be tabled until next month. Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to adopt the final plan for the County Line Shopping Center, with conditions as specified by the Planning Commission, and including the additional \$15,000.00 to be placed in an interest bearing escrow account to cover the impervious surface condition, as well as to provide for the cost to the Township if the applicant should default.

2. Gro-N-Sell - Act 537 - Mr. Wynn presented an Act 537 plan revision resolution for the Gro-N-Sell Land Development, which previously received a preliminary plan approval, and is currently before the Planning Commission as a final plan. The Act 537 revision is a necessary step for accomplishment of one of the preliminary plan conditions, which is approval of the sewage facilities on the site by DER. Mr. Wynn explained the reason for the resolution to the plan revision is that this is technically called a "community facility" because the site contains a dwelling and also a bathroom for employees. Because of those uses, under DER regulations, it is a revision to the Act 537 Plan. This revision has been signed by the Township Planning Commission as well as the Bucks County Planning Commission. Mr. Wynn recommended the Board adopt Resolution #93-18 to amend the Act 537 Plan for Gro-N-Sell Land Development.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to adopt Resolution #93-18 to amend the Act 537 Plan for Gro-N-Sell Land Development.

3. Neshaminy Creek Stormwater Management Ordinance - As required by the Pennsylvania Stormwater Management Act, which was adopted in 1978 and amended more recently, and as adopted by the County plan, Mr. Wynn noted the Neshaminy Creek Watershed is now an official stormwater management area of Bucks County. Pursuant to that, as previously discussed by this Board, the Township is required to adopt a Neshaminy Creek Watershed Stormwater Management

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Ordinance, to DER regulations. A draft of that plan was forwarded to the Supervisors, and the Hilltown Township Planning Commission. That copy did not include Article 6, which has subsequently been prepared by John Rice from the Township Solicitor's office, and will be inserted into the Ordinance. Also, the draft of the Ordinance did not include one of the appendix', dealing with best management practices.

The Ordinance, as Mr. Wynn had indicated in correspondence forwarded to the Board, is based upon a model Ordinance prepared by Bucks County. Practically speaking, this will affect the lower third of Hilltown Township, though it does not affect too much activity in that area. In most instances, the stormwater management control will be very similar to retention basins currently required by the Township's Subdivision/Land Development Ordinance, with the exception of the one year, first flush requirement. This is a detailed requirement that does not significantly modify the retention basin, it modifies the outlet structure. Other opportunities for stormwater management control, for the most part, will not be practical within Hilltown Township because of slow groundwater percolation and shallow depth bedrock, which are limiting zones, and things such as recharge systems, which are included as a best management practice objective. This Ordinance exempts certain activities from compliance, including agricultural activities, forest management activities, mining activities, use of land for gardening, for home consumption, and also regulated activities, such as dwellings or impervious surface, that creates less than 10,000 sq. ft. of additional impervious surface. Therefore, for the most part, it will continue to affect larger subdivisions and land developments which are already required to comply with the Subdivision/Land Development Ordinance stormwater management, which is almost identical to this.

In addition to the Stormwater Management Ordinance, there is a requirement to adopt an amendment to the Subdivision Ordinance, in order to tie the Stormwater Management Ordinance for the Neshaminy Creek Watershed into the Subdivision Ordinance. At this point, the Planning Commission has recommended that the Board of Supervisors begin the process to advertise and adopt the Neshaminy Creek Stormwater Management Ordinance, though they have not yet reviewed the Ordinance proposed to amend the subdivision regulations. The Planning Commission plans to do that at their worksession meeting next month, and will make recommendations on the amendment after that time. The Subdivision Ordinance amendment will also need to be reviewed by the Bucks County Planning Commission for adoption.

Mr. Wynn is seeking authorization to begin the process toward receiving the Bucks County Planning Commission review of the Subdivision/Land Development Ordinance amendment. Mr. Wynn advised the Board will most likely not be prepared to adopt both the

Neshaminy Creek Stormwater Management Ordinance and the Subdivision/Land Development Ordinance amendment until the meeting in March or April, because of the time frame for County review and advertisement.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to send the Subdivision Ordinance amendment concerning the Neshaminy Creek Stormwater Management Ordinance to the Bucks County Planning Commission for their review.

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

1. Orchard Station Subdivision - This site is located on Orchard Road. Mr. Wynn explained the developer has requested that the Township accept dedication of public improvements, which includes the roadways and the open space within that development. All public improvements have been completed, and most recently there has been some activity within the retention basin which was not drying up well. It is ideal that during the driest parts of the summer months for the bottom of the basin to be mowable. In response to that, the developer agreed to, and has installed, under-drains at the bottom of the basin, and has repaired an eroded swale. This recently occurred within the past month, and obviously has not been able to stabilize the ground cover. All street trees have been installed, all inlets have been cleaned and patched recently, final paving has been accomplished, and all property pins and monuments have been installed.

Mr. Wynn recommends the Board accepts completion of the public improvements, with the acknowledgement as noted in the letter from Moulton Builders, dated February 8, 1993, which states there are still some minor items which need to be accomplished when the weather becomes nicer, and will be accomplished during the maintenance period. Those items consist of final seeding and stabilization of the basin which was just disturbed. There are also some minor eroded areas in the open space which need to be overseeded and repaired. Mr. Wynn does not propose that there is any need for additional funds beyond the 10% maintenance funds which are held by Union National Bank and Trust Co., as that amount is in excess of \$84,000.00. Mr. Wynn asked the Board to approve a motion to accept the public improvements for the Orchard Station Subdivision, and to begin the 18 month maintenance period.

Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to accept the public improvements for the Orchard Station Subdivision, and to commence the 18 month maintenance period.

2. Toth Subdivision - Planning Module - Mr. Wynn explained this is the re-subdivision of Lot #18 into three lots. The

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Resolution for an Act 537 Revision is required since this is a re-subdivision of a property of a much larger subdivision that previously was the subject of an Act 537 Revision. Under DER regulations, as amended in 1991, all subsequent subdivisions, even minor subdivisions within a larger subdivision, are required to go through the entire process again. Mr. Wynn recommends the Board adopt a Resolution to amend the Act 537 Revision for the Hawk Ridge Lot #18 resubdivision, that having been a condition of final plan approval several months ago.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to adopt Resolution #93-19 to amend the Act 537 Revision for the Hawk Ridge Lot #18 resubdivision.

3. Escrow Extensions - Last month, Mr. Wynn stated, the Board discussed two Escrow Agreements which are Letters of Credit and which were about to expire.

Regarding the Schade Tract Subdivision, the Township has received written confirmation from Meridian Bank that their Letter of Credit has been extended to expire on January 30, 1994.

With respect to the Carney Land Development, Mr. Carney has to maintain his 10%, or \$6,548.81 during the maintenance period for the public improvements that had been installed there. Mr. Wynn received correspondence from Union National Bank, dated February 3, 1993, which offers to not re-new the Letter of Credit, but rather to retain, in cash, \$6,548.81 until Township authorization to release these funds. These funds would be guaranteeing the maintenance period. The expiration date for that 18 month maintenance period is November 26, 1993. If that is satisfactory to the Board, Mr. Wynn will follow-up with Union National Bank, indicating that is acceptable. Mr. Wynn explained Union National Bank, instead of charging Mr. Carney for preparing another Letter of Credit, would hold some of his cash as a guarantee to the Letter of Credit until the Township would authorize it, rather than going through more paperwork.

Motion was made by Supervisor Fox, seconded by Supervisor Bennington, and carried unanimously to accept the proposal of Union National Bank retaining \$6,548.81 until the Township authorizes release of these funds for the Carney Land Development.

4. State Farm Insurance - Last month, Mr. Wynn advised as to what appears to be the termination of the State Farm Insurance construction project, located on Rt. 113 and Bethlehem Pike. The Township had heard rumors indicating that potential sub-surface soil contamination was, perhaps, the reason for discontinuation of the project. As directed by the Board, Mr. Wynn wrote to State

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Farm Insurance and their legal counsel requesting an update as to some information on sub-surface investigation performed on the site.

Mr. Wynn copied the Board on a letter he received, dated February 9, 1993, from the applicant's legal counsel, which states "At the groundbreaking stage of the State Farm Insurance anticipated construction site, hydrocarbon contamination in the soil was detected as petroleum contamination. Subsequently, Law Environmental, Inc. did conduct a site evaluation and assessment of potential contamination, and the results are still being evaluated by my client to determine the most feasible course of action to be taken. The reports and studies of Law Environmental are, of course, proprietary in nature. I can tell you, however, that the levels of contamination to some of the soil on the property appear to be significant. At this time, there does not appear to be evidence of groundwater contamination, which I am sure is what forms the basis of the Township's inquiry." Mr. Wynn is not sure how they came to that conclusion, since he is not aware that Law Environmental did any well testing or groundwater testing in the area.

As Mr. Wynn reported at last month's meeting, right after the commencement of construction, there were DER vehicles on the site. Mr. Wynn has contacted DER, but apparently no one from that office has admitted to being present on the site, and no records of their visit exists. DER has indicated that they will not respond to any suspected contamination unless there is a complaint filed.

Solicitor Grabowski asked if there are any private wells in the area of the site. Mr. Wynn replied there are private wells located adjacent to the site, including a fairly new well by Fretz Enterprises, which is within 50 ft. of the property line of this site. Supervisor Fox noted there is public water available in this area also.

Solicitor Grabowski felt the letter was an ominous one, from what it doesn't say. The attorney suggests the levels of contamination appear to be significant, and goes on to say that there does not appear to be evidence of groundwater contamination, however we do not know what report the attorney is reading, if any. If there are private water sources in the area, there is a question as to whether there is a duty by the Township to do something about it. Solicitor Grabowski suggested the Board might want to consider sending this correspondence to DER, which is the State agency assigned to take care of these types of tasks. If DER was indeed not present at the site and are not aware of the problem, perhaps it is the Township's duty to advise them of the situation.

At this point, through conversations with DER and speaking with the Underground Storage Tank division, Mr. Wynn commented DER had been at that site for tank removal several years ago. Where the digging occurred, and where the potential contamination was found is on the opposite side of the site. DER indicated they have no reason to visit the site or demand anything because there has been no formal, official complaint filed.

Supervisor Fox wondered if the Township should then file a complaint. Mr. Wynn felt the Township should advise DER of what we know, and inquire as to whether they are aware of it, and if it should be researched further by their office.

Solicitor Grabowski stated it might be appropriate for the Township to make a demand upon State Farm Insurance to forward copies of any environmental tests which may have been performed, so that we may take any action necessary to protect the Township's interest. Motion was made by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously to direct the Township Solicitor to draft a letter to State Farm Insurance's legal counsel, as suggested above.

5. Country Roads Subdivision - Mr. Wynn noted construction has begun on this subdivision, as far as erosion control and clearing of the site. The boundary lines of Phase I of the plan has been videotaped by Mr. Wynn's office, as a record of the conditions prior to construction, in the event of complaints in the future.

J. RESIDENT'S COMMENTS -

1. Mrs. Jean Bolger mentioned the request for reduction of the speed limit through the village of Blooming Glen, and asked for an estimate of the time frame before a response from PennDot might be expected. Mr. Wynn felt a reply from PennDot would depend upon how many requests are in-house at the time, but normally, a reply could be expected any where from four weeks to twelve weeks. Mrs. Bolger spoke with Representative Tom Druce, who indicated there may be a possibility of PennDot turning the road back to the Township.

Concerning the Country Roads Development, Mrs. Bolger asked if the developer was required to escrow the money for repair of the bridge on Telegraph Road. Supervisor Fox replied that will happen at construction of Phase II, which means the developer will not be able to construct the access road to Telegraph Road or build, until the bridge is repaired. Phase I construction will only include an access onto Rt. 152. Mr. Wynn noted the developer had requested that repair of the Telegraph Road bridge be delayed until construction of Phase II.

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Solicitor Grabowski read the Development Agreement for Country Roads Development, which states "Owner hereby agrees and acknowledges that the language contained within Item 8 of the correspondence of C. Robert Wynn Associates of December 31, 1991, regarding bridge design, construction, and cost associated with the Telegraph Road bridge was modified by correspondence of Hilltown Township of July 28, 1992, to the extent that funds to guarantee the design and construction of said bridge on Telegraph Road shall be guaranteed financially in a manner satisfactory to Hilltown Township prior to the commencement of Phase II of the development. The owner further agrees and acknowledges that actual construction of said bridge shall commence concurrently with the installation of Phase III improvements, and shall be completed by the mid-point of actual construction of homes within Phase III."

Mrs. Bolger stated what the Board is assuming is just because the developer is not taking the road through to Telegraph Road until after construction of Phase I, that there will not be an impact on Telegraph Road until that time, and she does not agree with that. Mrs. Bolger feels the money should be escrowed at this time, because Telegraph Road will definitely be impacted, even by the construction of Phase I construction.

Further, Mrs. Bolger agreed with statements made earlier by Mr. Godek, and felt the Board did not properly answer his questions and that they were skirting the issue.

3. Mr. Bill Godek commented from what he has seen in past history and also this evening, the Board should be commended on the orchestration that he saw, and he felt it was very well done. In terms of how he views the integrity of this Board and the answers that he receives in the future, they are going to be colored by the actions he saw this evening. Mr. Godek gets the impression that things are going on behind closed doors, which are not known to the public, but certainly influence what goes on. Mr. Godek felt the actions of the individuals on the Board this evening are reprehensible. He feels he has been lied to and as a result, he has lost confidence in the Board of Supervisors of Hilltown Township. If the Supervisors had been straightforward, had explained that times have changed, and that they felt an amendment should be made to the agreement, he would have been satisfied. However, he feels the methods used by this Board were pitiful.

Chairman Bennett noted that two weeks ago, the Board stated there was a possibility the quarry agreement could be amended.

Mr. Godek recalled a meeting which took place last year, where the Supervisors said the Township will insure that the agreement is abided by.

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K. SUPERVISOR'S COMMENTS -

1. Chairman Bennett announced the Board met in Executive Session prior to this meeting to discuss legal matters.

2. Supervisor Bennington commented he and Mrs. Berdell, who spoke earlier this evening, both live on East Walnut Street, and from experience, stated it is quite an inconvenience to residents when a street name changes. Supervisor Bennington felt the alternatives of naming either the bridge or the open space area in the Pleasant Meadow's Development after Mrs. Berdell's father was viable, rather than changing a street name.

3. With regards to Mr. Godek's comments, Supervisor Bennington stated if the Board of Supervisors in 1981 had made an agreement that the first born male in every family should be killed, it would certainly be his responsibility to change that agreement. Agreements can be changed.

4. Supervisor Fox stated he would not have signed that agreement back in 1981. He does not feel it was to the benefit of the Township residents.

L. PRESS CONFERENCE - A conference was held to answer questions of those reporters present.

M. ADJOURNMENT - Upon motion by Supervisor Bennington, seconded by Supervisor Fox, and carried unanimously, the February 22, 1993 meeting of the Hilltown Township Board of Supervisor's was adjourned at 10:00PM.

Respectfully submitted,

*Lynda S. Seimes*

Lynda Seimes

Township Secretary

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