

**HILLTOWN TOWNSHIP
SUPERVISORS' MEETING
(WATER ORDINANCE HEARING)
May 5, 1987**

The meeting of the Hilltown Township Board of Supervisors was called to order by Chairman, Vincent Pischl, at 7:34 P.M.

Chairman Pischl announced that the purpose of this public hearing is to review the proposed water ordinances and spray irrigation ordinance which are being proposed for adoption for Hilltown Township. He suggested that Mr. Grabowski give highlights of the ordinances.

Mr. Grabowski indicated that the purpose of this meeting is to consider the adoption of four (4) separate ordinances which have been recommended by the Hilltown Township Planning Commission. Pursuant to the Municipalities Planning Code, copies were sent to the BCPC for their review and the HTPC for further review. All ordinances were also advertised in the News Herald newspaper on April 8th and April 15th (proof of publication is on file at the Township office).

Mr. Grabowski indicated that each ordinance would be explained and reviewed separately, as follows:

ORDINANCE #87-1 - AN ORDINANCE AMENDING THE HILLTOWN TOWNSHIP ZONING ORDINANCE NO. 83-1, SAID ORDINANCE BEING ENACTED AND ORDAINED ON JANUARY 24, 1983; SPECIFICALLY AMENDING SAID ORDINANCE RELATIVE TO USE B3, SINGLE-FAMILY DETACHED CLUSTER.

Mr. Grabowski stated that this ordinance provides for an amendment to Section 405, Use Regulations, B-3 Single Family Detached Cluster which shall be revised to include the following paragraph:

"Single family detached clusters must be serviced by both public water and public sewer.

This Amending Ordinance shall take effect and be in full force and effect five (5) days after is is adopted by the Board of Supervisors of Hilltown Township."

Mr. Wynn received BCPC recommendations on Monday, 5/4/87; this ordinance was reviewed by the BCPC twice and they have indicated that their previous review still stands. Mr. Grabowski requested that Mr. Wynn highlight recommendations of the BCPC.

Mr. Wynn explained that Use B-3, Cluster Housing, is allowed in both the CR & RR Zoning Districts. In the CR District, minimum lot size for cluster housing is 30,000 S.F.; 17,000 S.F. in the RR District. The BCPC review of 11/12/86 and update of 4/15/87, recommended non-adoption due to inconsistency with the comprehensive plan. BCPC states that the purpose of the RR District is to prevent premature and haphazard development; their concerns are that the cluster development will permit: (1) retention of farmland through clustering houses on portion of the tract; and (2) by requiring that cluster housing have on-lot sewer, it will increase the likelihood of sewer extension in the RR District. Mr. Wynn stated that the PC's comments were as follows: (1) While the RR District is not proposed for extension of sewer in much of the district, there is a large portion which is currently served by public sewer and could be serviced by public water in the near future; (2) PC also expressed concern that clustering of houses and wells or sewage facilities will only enhance the problems of sewage disposal malfunction and groundwater. The feeling of the Board was that cluster housing should be restricted only to those areas with public sewer or that are within the area of the Water & Sewer Authority jurisdiction.

BCPC states that the impact on the adopted policy is to affectively prohibit cluster development in the RR District since clustering would be required to have public sewer service which they state is not permitted in almost the entire RR District. Mr. Wynn indicated that this is what is intended -- that the majority of the RR District would be off limits to cluster development and would be allowed only within that area where sewer and water is available. He further stated that an extension of a public sewer system outside those areas already designated and franchised would require an ACT 537 revision by the Board and approval of an amendment to the agreement with the Sewer Authority and acceptance by the Sewer Authority.

In conclusion, Mr. Wynn stated, "In attempting to represent the decisions that were being made in recommending this ordinance, the effect of it, hopefully, would be to eliminate cluster development in those portions of the RR Zoning District where public water and public sewer are not available or planned."

Mr. Brennan requested a number for this ordinance and was told it would be Ordinance #87-1.

Chairman Pischl asked for any questions or comments from the public, there being none, Mrs. Kelly made a motion to approve Ordinance #87-1; Chairman Pischl seconded the motion; Mr. Grunmeier stated, "Let it show in the record, Mr. Chairman, that this was recommended by the BCPC for non-acceptance." Motion carried.

Mr. Brennan made the following comment, ". . . the extension of the sewer system into the Rural Residential area is really a protectionist-type philosophy -- we don't want the sewer system -- if we can use an ordinance as a means to do that -- to prevent development in the Township, then we will do that."

ORDINANCE #87-2 - AN ORDINANCE PROVIDING FOR MANDATORY CONNECTION TO PUBLIC WATER SYSTEMS; ESTABLISHING WATER CONSERVATION REQUIREMENTS FOR ALL NEW STRUCTURES WITHIN HILLTOWN TOWNSHIP; AND PROVIDING FOR WELL CERTIFICATION FOR PRIVATE WATER SUPPLIES.

Mr. Grabowski explained that this ordinance amends the Hilltown Township Subdivision Ordinance, specifically amending Section 512, Public Water Supply Systems and Centralized Water Supply and Distribution Systems, Section 513 - On-Lot Water Distribution Systems.

Mr. Brennan requested a number and was told it would be Ordinance #87-2.

Mr. Wynn explained that this ordinance requires that all building requiring water service, located within 150 feet of a right-of-way of a public water main is required to make connection to the public water main and pay connection fees and rental rates of the authority having jurisdiction (of which there are three different authorities). He further explained that this ordinance would apply in all instances where there is new construction requiring water supply or where there is an existing structure wherein the structure is enlarged or changed in use to a new use requiring increased water capacity. It specifically excludes residential additions not increasing number of dwelling units (anyone adding a bedroom to a house would not have to connect; if they are converting the house from one unit to two units, they would have to connect).

This ordinance also establishes water conservation requirements and fixtures. Mr. Wynn stated that these requirements are the same that the HTWSA currently requires for all their water and sewer customers. It requires water conservation fixtures for all new construction throughout the Township, whether public or private water supply. It also requires a well certification which provides that when a private water supply is to be installed for new construction, a certification as to capacity and quality is required prior to issuance of a building permit by the Township. Mr. Wynn explained that this is done through a well yield test, with a pumping test of minimum of 4 hours duration. In the event that the pump shows the well does not yield a minimum of 6 gallons per minute, a water system must be designed to be able to provide for sufficient storage by way of oversize tanks or capacity in the well. Well drillers are required to file a copy of the report submitted to the Commonwealth of PA with the Township. At a minimum, there are three (3) water samples required for: coliforms, pH, iron, nitrates, total dissolved solids, TCE, PCE, and 1-1-1 trichlorethane, detergents, and benzene, toluene, xylene. These three samples are to be taken 30 minutes after the pump test starts and 10 minutes prior to end of the test.

Further, the ordinance requires certain well construction casing requirements for well construction; requires that all withdrawals in excess of 10,000 gallons from a private well must register their well with the Delaware River Basin Commission and provide the Township with copies of all correspondence, applications, and required submissions and reports that are filed with the DRBC. It also requires that a permit must be issued by the Township prior to commencement of well drilling operation.

Mr. Wynn reviewed the BCPC review dated April 29, 1987. On Page 3, Item B, BCPC suggests that in addition to the list of contaminants for well certification, that chlorides and sulfates be added. He also reviewed correspondence received from International Exploration (who supplied the technical background for the two water ordinances). Hydrologist, John Walker reviewed the final draft of this ordinance and indicates that his concern is with the cost of the ordinance, for both water testing and pump test (pump test -- several hundred dollars; cost of water samples -- approximately \$480).

Mr. Grunmeier asked if a new resident with one home would have to abide by this and was told they would at an approximate cost of \$700 to \$1,000. Mr. Grunmeier questioned Section 4A in INTEX's review. Mr. Wynn indicated that with testing of both quality and quantity of water, the more testing that is done always increases the likelihood that there is sufficient quality and quantity, but also increases the cost. He indicated that the test that is suggested would significantly lower the cost, but would be less accurate and would not require the same type of professional as the water test. Mr. Grunmeier also questioned Section 4C, Mr. Wynn's reply was that the final version is that one sample in a period of time would reduce the cost by one-third. Mr. Grunmeier questioned if three samples would be more accurate and was told it would be. Mr. Wynn indicated that the longer the well would be under stress from a pump test, the more likely that contaminants in the surrounding area would be drawn into the well. He further stated if the well would be pumped for 24 hours, that would be a better test, but would increase cost. Chairman Pischl asked if the ultimate cost would be worth it to guarantee a resident that they do have quality water. Mr. Wynn answered that the test would only guarantee that the quality and quantity of the water was sufficient at that time; it would not guarantee that the well would

not go dry in five years; it would also not attest that the well would not have one of the pollutants present after thirty (30) days -- it would only certify that at the time the well was tested, it had sufficient quantity and quality. Chairman Pischl questioned if the less expensive test would guarantee the same results. Mr. Wynn replied that it would probably have the same accuracy (within 20%). Chairman Pischl then stated, "Why go to the more expensive test, when you can get the same results for one-third the price".

Mr. Brennan asked, "What kind of results are you looking for . . . quantity or quality?" Mr. Grunmeier and Mr. Pischl answered that they are looking for both. There was further discussion between Mr. Brennan and Mr. Wynn regarding pros and cons of running the test for a longer period of time -- 24 hours vs. 4 hours. Chairman Pischl answered that although the initial testing may indicate there is potable water and plenty of it, it could be contaminated two years later. Mr. Brennan stated, "You have taken all the prudent steps available to you at that time . . . how far do you want to go, because you are not going to bear the cost, the homeowner is, the developer will pass it on". Mr. Grunmeier replied that a private individual would also have to pay that cost for one home. Chairman Pischl again remarked that if you can get the same results for a lower fee, why not go that route. Mr. Brennan questioned if a 4 hour test would give the same results as a 24 hour test. Mr. Grunmeier answered that you could continue to define this indefinitely. He stated, " We want a well that will produce safe water; yet on a private individual (this is my feeling) coming into this municipality, I don't want to load him up with a lot of payment unnecessarily." Mrs. Kelly and Chairman Pischl agreed to this. Chairman Pischl again stated, "If you can get the same results of the test for one-third the price, why go into this big complication when you will still obtain the ultimate results?" Mr. Brennan questioned the responsibility of the Township regarding contaminants present in the well; Mr. Grabowski replied that there is governmental immunity and that there is no burden or responsibility on any municipality to guarantee safe water in a well being drilled by a resident.

Mr. Brennan stated that a test should be run for a longer time since the cost is minimal to the Township in terms of protecting themselves in the long term. Mr. Grabowski replied that the purpose of the Ordinance is not necessarily to protect the Township, but to protect the homeowners.

Mr. Wynn explained various types of tests performed (bailer tests vs. pump tests). Mr. John Walker, hydrologist for INTEX, has recommended that the cost would not warrant this extensive test, and that one sample would be sufficient. Mr. Wynn indicated that this would be a judgement the longer and more involved the testing procedure, better verification of results would be obtained. The P.C. felt that this was a reasonable amount. Mr. Brennan then questioned requirement of 6 gpm and indicated he had reservations about going below that amount. In answer to Mr. Grunmeier's question, Mr. Wynn explained that if a well can yield 6 gpm, it will produce 360 gallons per hour and that is far in excess of what an average home would use in one day. There was further discussion regarding water usage and its effect on the wells. Mr. Wynn explained pumping rate and yield of well.

In answer to Mr. Brennan's question, Mr. John Snyder explained depth of well and reserve of water. Chairman Pischl asked for further comments; Mr. Brennan suggested that this ordinance be tabled until it is determined why 6 gpm was recommended as a minimum standard. Mr. Grunmeier questioned (under Section 2, Water Supply Connections), if an addition is put on a home for use of an in-law with a bathroom addition,

would a resident have to hook to public water. Mr. Wynn replied that he would not. Mr. Grunmeier then asked if a resident's well goes dry and it is a private well, must he hook to public water or can he dig a deeper well. Mr. Wynn replied that he would not have to hook up to public water, and he would also not have to perform a well certification. However, if a resident owns an old farmhouse and converts it to apartments, this would be a change in use and he must hook up to public water.

Mr. Kenneth Lennon, 376 N. Main St., Sellersville, questioned water quality certification and asked if there is any relief provided treatment if the well fails. Mr. Wynn indicated that contaminants could be treated. Mr. William Bennett questioned what percentage of homes in Hilltown Township would pass the 6 gpm test. Mr. Wynn answered that of the new homes, less than half would pass. Mr. Brennan indicated that chemical contamination cannot be eliminated by chlorination. In answer to Mr. Brennan's remarks regarding chemical contaminants, Chairman Pischl indicated, "If you buy a lot and there is no water there or it is contaminated, wouldn't you rather find out before you build the house . . . this ordinance is a step in the right direction."

Chairman Pischl asked for further questions. Mr. Franklin Rice questioned what charge would be made for a permit to drill a well. Mr. Wynn indicated that would be adopted by a separate resolution. Mr. Grabowski also indicated that a permit form would also be required. The Board agreed that this would be taken care of at the next Supervisors' meeting. There being no further questions, Chairman Pischl asked for a vote. Motion was made by Mrs. Kelly to adopt Ordinance #87-2, Mandatory Connection to Public Water Systems; motion seconded by Mr. Grunmeier and carried unanimously.

ORDINANCE #87-3: AN ORDINANCE AMENDING THE HILLTOWN TOWNSHIP SUBDIVISION ORDINANCE, ENACTED AND ORDAINED JUNE 22, 1981, AS AMENDED: SPECIFICALLY AMENDING SECTION 512, PUBLIC WATER SUPPLY SYSTEMS AND CENTRALIZED WATER SUPPLY AND DISTRIBUTION SYSTEMS AND SECTION 513, ON-LOT WATER DISTRIBUTION SYSTEMS.

Mr. Grabowski indicated that the word "centralized" in the title of this ordinance (above) be changed to "community" (this was a typographical error).

Mr. Wynn explained that this ordinance provides for individual on-lot wells; tying the previous ordinance into the Subdivision Regulations; it also provides that, upon recommendation of the PC and/or HTWSA, all major subdivisions in which the smallest lot is less than 5 acres in size are required to be provided with a public or community water supply and distribution system, designed and constructed to HTWSA specifications if mandated by the Board of Supervisors. Mr. Wynn read from Page 5 of the Ordinance concerning requirements for water mains, fire hydrants and requirement of a water impact study. He indicated that Section 512 sets the technical parameters for investigations which are required (i.e. 48-hour pump test).

BCPC recommended non-adoption of this ordinance. Mr. Wynn reviewed their comments as follows:

1. Feasibility of requirements - BCPC states to require a centralized water system for a three lot subdivision is unrealistic and unnecessary, particularly if the lots were five to ten acres or more in area. Mr. Wynn indicated that this would not be required for a community system because there is a minimum lot size requirement. He further commented that this proposal does address number of units (3), density and lot size, more stringently than the BCPC recommends.

2. Water quality requirements - Mr. Wynn stated for community systems with 15 to 25 dwelling units, DER sets the requirements for quantity and quality; however, for less than 15, DER does not set standards.

3. Fire Hydrants - BCPC states that, requiring a public or community system, including fire hydrants, for developments of three lots or more appears to be excessive (storage tanks would have to be provided for subdivisions as small as three lots). Mr. Wynn stated that this Board would have to mandate the water community system and if the Board also feels that this is excessive, this requirement could be waived.

4. Terminology - "centralized" changed in title.

5. Collection of samples - clarification of technical requirements for well drilling - rock or water samples. Mr. Wynn indicated they should be rock samples.

BCPC suggested combination of Ordinance #2 and Ordinance #3 into one comprehensive ordinance which addresses water supply connections, water distribution systems, well certification, well construction and water conservation requirements.

Mr. Wynn stated that this type of water impact study will provide data to estimate the potential effect of a well on adjoining wells (monitoring of wells, longer pump test and a hydraulic study is required). He indicated that this test is very expensive - approximately \$8,000 to \$12,000. Chairman Pischl asked if this would be required strictly for major developments. Mr. Wynn indicated that the ordinance provides that it can be as small as a major subdivision of three lots; if recommended by the PC, Water Authority, and required by the Board of Supervisors (this could be required in an area where there is a known water problem).

Chairman Pischl asked for questions. Mr. Rice asked whether this would only refer to cluster housing (any subdivision over 3 lots). Mr. Grabowski indicated that it would affect any subdivision, with any lot having less than 5 acres. Mr. Grabowski made the following observation regarding fire hydrants and fire fighting, ". . . the existing water system in Hilltown does not have fire fighting services, in that there is just not the storage capacity (the system has a 10,000 gallon pneumatic tank in operation) and that will not fight any fire. For that reason, there are no fire hydrants in the existing system. There is escrow funds by the Authority at some point in time when storage is available."

There being no further comments, Chairman Pischl asked for a vote. Motion was made by Mrs. Kelly to adopt Ordinance #87-3; seconded by Mr. Grunmeier and carried unanimously

ORDINANCE #4 - SPRAY IRRIGATION ORDINANCE

Mr. Grabowski noted a correction on Page 5, Section 423, Spray Irrigation Area, "The spray irrigation area shall be designed . . ., Item A-4 reads, "0.4 inches/ . . . on moderately deep, well-drained soils". The word "moderately" should be deleted.

Mr. Wynn indicated that this ordinance was not reviewed by the BCPC because it is not an amendment to the zoning or subdivision regulations. He explained that the purpose of the ordinance is to minimize danger to public health by encouraging appropriate construction and operation of spray irrigation systems and to specify minimum design features

to reduce the environmental impact on spray irrigation systems. The following requirements were noted: (1) minimum setback distances from property line; (2) prohibits installation on poorly drained soils and steep slopes; (3) requires that the spray area be enclosed with a 4' high chain link fence with locked gate; (4) requires berm and tree planting to buffer the spray area. The design features require: (1) that there are five (5) monitoring wells; (2) there is a wind velocity airlock to prevent spraying during wind speed in excess of 8 m.p.h.; (3) there is a shut-off of the system accessible to the Township to shut down if not operating properly; (4) water conservation fixtures; (5) chlorine residual monitoring system and a temperature monitoring system to prevent spray during freezing weather. On operation and maintenance, the ordinance requires that spray application be done between hours of 9:00 P.M. and 6:00 A.M.; that test wells be monitored at least once per month; that all domestic wells within 500' be monitored at intervals of not less than six (6) months; the testing of the chlorine residuals at intervals not exceeding one week; and that the ground cover spray area be maintained in 4" or less of grass. It also requires application, submission and permitting by the Township; approval of design drawings; provides for annual operating permit to be issued by the Township; and requires previous years' operational data be submitted to the Township in order for renewal of permit. This ordinance also requires that application and operating permit cost be established by a separate resolution.

Chairman Pischl asked for questions or comments. Mr. Bennett asked if there would be a minimum amount of acres. Mr. Wynn indicated that this could be installed on two (2) acres. In answer to Mr. Bennett's question, Mr. Wynn indicated that there are two such installations within Hilltown Township.

Mr. Grunmeier stated, "I have some reservations with this proposed ordinance and I feel some elected officials in Upper Bucks County also have some reservations about passing an ordinance." He indicated that he has been in contact with several Upper Bucks municipalities: Bedminster has no ordinance; New Britain does have a resolution, not an ordinance; Haycock has a resolution which is being challenged in Federal Court; Doylestown Township, Springfield Township, Solebury Township, West Rockhill Township, East Rockhill Township, Milford Township, Richland Township all have no ordinance. Buckingham Township has a spray irrigation ordinance incorporated in their "201 Sewage Facilities Act"; Tinicum Township - yes, incorporated in their Palisades' Waste Treatment Plant Act. Mr. Grunmeier stated, "If the majority of the Board feels that there is a need for such an ordinance or resolution, I would suggest that it be patented after the New Britain Township Resolution #82-6, which I think everyone could live with (as a compromise) if the majority of the people on the Board feel there is a need for it, I would suggest we do it by resolution and patent it after the New Britain Spray Irrigation Resolution. I realize that you haven't had time to review it and if it's alright with the Board, I feel that that this should be tabled at this time so that we can review it more thoroughly." Mr. Brennan stated that the ordinance as it is presented has been patented after the New Britain Township ordinance and if compared item for item, it is the same as the New Britain Ordinance (with a few exceptions). Mr. Wynn indicated that the majority of this ordinance was based on the West Rockhill Ordinance. Mr. Grunmeier stated that other avenues should be examined and if there is a need for it, it be advertised as a resolution. Chairman Pischl questioned purpose of having it in resolution form rather than ordinance; Mr. Grunmeier answered that an ordinance is the law of the Township; a resolution is a basic working idea of the Township.

Mr. Grabowski concurred with this definition, and further explained that these types of systems fall under three state acts, Sewage Facilities Act, the Solid Waste Act and the Clean Streams Act. DER is given power to regulate the Sewage Facilities Act. He indicated that local municipalities can adopt regulations which are conforming and consistent with the state acts and with our own regulations. The question raised in Haycock was, does the Second Class Township give a Township the right to adopt an ordinance regulating spray irrigation. The Environmental Hearing Board found against Haycock Township, indicating that Haycock and other second class townships do not have the power to adopt regulations that are inconsistent with state regulations. Haycock Township filed an appeal with the PA Commonwealth Court and a decision may not be rendered until Fall of 1987. Mr. Grabowski indicated that the question is still open in Pennsylvania whether or not Townships or Boroughs have the right to regulate spray irrigation systems; and in Haycock's case, that is the reason it was handled by way of resolution, because of the language in the Sewage Facilities' Act regarding regulations. Mr. Brennan asked if the Township is vulnerable to spray irrigation systems and indicated that the PC's concern is with a large amount of spray irrigation systems in close proximity. Mr. Grunmeier indicated that he posed this question to an official in another Township, "Since you have this resolution, how many spray irrigation systems do you have within your municipality and he replied, one". Mr. Grunmeier asked if the regulations in this ordinance are DER's or are some of them ours, Mr. Brennan replied that they are not all DER's regulations.

Mr. Grabowski stated, "I just want to make sure everyone goes into this without a false sense of security that this is going to stop anyone from putting in a spray irrigation system . . . that it is before the PA Commonwealth Court who may say yes, Townships do have the right or they may say Township's don't have the right."

At this time Chairman Pischl stated, "It appears there are quite a few questions on this, does anyone want to make a recommendation to table this so that we can research it further". Motion was made by Mrs. Kelly to table this resolution, motion seconded by Mr. Grunmeier and carried unanimously. Chairman Pischl announced that this resolution would be tabled for further study. Mr. Brennan asked for reason for tabling this resolution and was read Mr. Pischl's above statement by the Township Secretary.

Mr. Wynn suggested since all of the above adopted ordinances would be in effect on May 11, 1987 (and that since any application made effective next Monday would be potentially affected by these ordinances) that they be mailed to the engineering firms who normally are involved in the Township's applications. In reply to a resident's question, Mr. Grabowski stated, "If you have a permit in hand, you are exempt; if you do not have a permit in hand, you are not exempt."

There being no further questions or comments, a motion of adjournment was made by Mr. Grunmeier at 9:10 P.M.

Respectfully submitted,



Gloria G. Neiman
Township Secretary