

The Regular Monthly Meeting for the Moore Township Board of Supervisors (BOS) was called to order on Tuesday, March 2, 2021, by Chairman Daniel Piorkowski at 6:00 PM. The meeting was conducted via Zoom teleconference. Members present were Chairman Daniel Piorkowski, Vice Chairman David Shaffer, Supervisor Richard Gable, Township Manager Nicholas Steiner, Township Solicitor David Backenstoe, and Township Engineer Kevin Horvath from Keystone Consulting Engineers (KCE).

The next Regular BOS meeting will be Tuesday, April 6, 2021 at 6:00 PM.

SUB-DIVISIONS AND LAND DEVELOPMENT

WAIVERS & DEFERALS

REGULAR BUSINESS

MINUTES

Mr. Shaffer made a motion to approve the minutes from February 2, 2021

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

FINANCIAL REPORT

Mr. Gable made a motion to approve the Financial Report

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

PAYMENT OF THE BILLS

Mr. Shaffer made a motion to pay the bills

Mr. Steiner noted bills for the month from General Checking are \$120,953.79. The Liquid Fuels bills are \$76,278.66.

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

APPROVE PAYROLL

Mr. Gable made a motion to approve the payroll

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

POLICE DEPARTMENT

Chief Gary West read the February 2021 report. In addition, he wants to research an ordinance for loose livestock which would include pigs, horses, goats, animals of that nature. He's going to see if any other

municipalities have such an ordinance and asked the Board's permission to consult with Attorney Backenstoe over adopting such an ordinance. Mr. Piorkowski asked Attorney Backenstoe if any of his other townships have a livestock ordinance. Attorney Backenstoe thinks they do to varying degrees. Moore Township has always been a rural community, so there have been less regulations with regard to livestock. Bushkill and Plainfield townships may have some regulations, and Lehigh Township may have recently adopted an ordinance. If Chief West wants to look at the other townships, he will also try to pull some ordinances from his townships. Attorney Backenstoe understands there's an individual or two who have large animals who don't have them properly secured. He's more than happy to work with the chief on the problem they're having and draft an ordinance. Mr. Jeff Ayers said he isn't sure what the chief is referring to as far as grazing animals but noted there's an acreage amount needed for horses and cows in the zoning ordinance. Attorney Backenstoe confirmed the zoning ordinance addresses how large animals and fowl need to be housed and size of acreage. If people have these animals on lots smaller than required, that can be a zoning violation. Assuming they have a 10-acre lot and have them housed, but they're not properly secure, that's a whole other issue. He'll talk to the chief to see if they can use the criminal code to file a nuisance action or nuisance complaint as an alternative. He's happy to work with the chief to work on an ordinance that's more protective than what they currently have.

FIRE & AMBULANCE

Mr. Jason Harhart read the fire and ambulance reports for January 2021.

PUBLIC WORKS DEPARTMENT

Mr. Craig Hoffman said street sweeping is scheduled for April 5-9 and April 26-30. They have been doing a lot of snow removal and fixing equipment. They'll be patching potholes the next few days. Mr. Steiner asked if he had a general idea for the year as far as roadwork understanding he's only been here a few weeks. The two roads Mr. Hoffman would like to get done this year are Dell from SR 512 to Copella and N. Oaks. N. Oaks is getting damaged from heavy traffic due to the detour. He wants to look at more roads with the Board to see if they have different ideas. Mr. Steiner said at some point he should reach out to Keystone regarding the GIS project noting they're putting together a long-term road plan to get the Township on schedule. They're in the early stages of gathering data, so they're using GIS technology to map out the Township and build a plan once everything is summarized including the road grades. They then need to work within the budget to figure the most cost-effective way to address all the problems. Mr. Shaffer thanked Mr. Hoffman and Public Works for all the plowing noting it's been a heck of a winter. All in all, he did not receive many complaints. Mr. Gable and Mr. Piorkowski agreed they did a great job.

FIRST REGIONAL COMPOST AUTHORITY

Mr. Gable said the snow slowed them down, but they're up and running again. They're doing a lot of grinding, and they should be in good shape.

NAZARETH COG

No meeting.

RECREATION COMMISSION

Mr. Mike Tirrell said the commission reorganized with the officers staying the same. They discussed a number of things but nothing to bring to the supervisors. They worked with MTAA to approve field rentals for adult baseball leagues.

HISTORICAL COMMISSION

Mr. Gable said the Historical Commission reorganized with Charmaine Bartholomew remaining chair, Janet Kline as vice chair, and Chad Brandon as secretary. He asked the Board to approve the chair and vice chair as set by the ordinance.

Mr. Piorkowski made a motion to approve the chair and vice chair

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

They are also in the process of ordering a sign for a one room schoolhouse on Line Road known as Little Mexico. The Whitners' son still lives there, and they'd like a historical sign. Otherwise, they made plans for the school picking out colors for the shutters and starting the inside of the windows.

LAND & ENVIRONMENTAL PROTECTION BOARD (LEPB)

Mr. Bob Romano said they were unable to have a meeting because they couldn't get a quorum, but there was a discussion amongst the members who did attend.

Open Space Evaluation

As first discussed at the last meeting, they'd like to revise their ranking and evaluation form for preserving properties. The question at the last meeting was whether or not it was part of the open space plan. The evaluation sheet and ranking is not part of the open space plan. It's suggested in the plan they have a ranking or evaluation sheet. It also suggested it be revised on a regular basis. They'd like to look at it more in depth over the next couple meetings when they can get a full board involved. They'd then present a new evaluation for the Board's approval. Attorney Backenstoe said that sounds good and is glad they checked.

Silfies Open Space Appraisal

Mr. Shaffer said the Township received an appraisal from Wildlands Conservancy in regard to an open space property approved to move forward with preservation for the Silfies property. It is 44.99 acres and the easement value came out to \$178,160, just shy of \$4,000 per acre which seems to be the going rate.

Mr. Gable made a motion to approve the Silfies appraisal at \$178,160

Mr. Piorkowski seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

COMMUNITY DAYS COMMITTEE

Ms. Lois Kerbacher said they're moving forward noting fireworks contract was carried over from 2020 and is signed. They have three bands booked: The Groove for Friday night, Cody Templeton for Saturday afternoon, and Social Call for Saturday night. Fireworks will be Saturday night. They are having trouble arranging fundraisers and are trying to get donations, but businesses don't have extra cash. They're also looking into larger rides and an escape room.

ZONING AND BUILDING OFFICER

Mr. Harhart said the Planning Commission received a sketch plan at their last meeting regarding a proposed two warehouses on the Southmoore golf course property. A sketch plan is not a formal plan submission. The sketch plan was presented to discuss a proposal for warehouses. There was no

stormwater plan, sceptic plan, and traffic impact analysis from PennDOT. It was just an informal plan. If, and when, they do submit the plans to the Township, all the property owners bordering the site will be notified by mail per the subdivision and land development ordinance that an actual plan has come in for review. He wanted to clarify they did not have anything like that at this time, it is only a concept sketch. There's no further action or discussion until they receive a plan if, and when, they receive one in the future. Attorney Backenstoe said they don't know if there will or will not be a submission. It was a little unclear at the Planning Commission meeting. The person proposing the warehouse doesn't own the property yet. They might have an agreement of sale contingent on something, or not. He doesn't know how steadfast this submission is. The zoning ordinance absolutely must allow for every use in the Township. If they do not allow for a particular use, they subject themselves to an exclusionary challenge. For example, if the Township doesn't allow them anywhere in the Township, and somebody wants to put one up in a residential or conservation district, they can file an exclusionary zoning challenge and chances are they're going to win. The relief for an exclusionary zoning challenge is site specific. The ruling wouldn't be to allow the zoning somewhere else. If the Township doesn't allow for a particular use, it runs the risk of exclusionary zoning and potentially a federal lawsuit. Understanding nobody wants to hear about warehouses, his understanding of the situation in Moore Township is warehouses have been a permitted use by right in the industrial zoning district since 1980s. He, nor this Board, had anything to do with allowing at that time. They have to allow them somewhere, so it makes sense it's in the industrial district. This Board, with Mr. Harhart's input, were proactive to thoroughly review and research warehouses and adopted a very comprehensive warehouse ordinance which limits the height, the impervious cover, requires traffic studies and sewage regulations, buffering and idling restrictions, and on-site parking to keep tractor trailers from parking on the road. This Board took a proactive step and took a cross section of different Township ordinances to make a warehouse ordinance that's pretty comprehensive. That said, if someone comes in the industrial district and wants to put up a warehouse, and they completely comply with all the provisions in Zoning and SALDO, the Township would have a really tough time not approving that and would subject themselves to liability if they deny something the ordinance specifically permits. It's a difficult and emotional issue. Most residents who hear about them are terrified for good reason, but they have to allow them somewhere, and the Township has allowed them in the industrial district since 1980. They adopted a comprehensive ordinance last year they didn't have before. The sketch plan at the Planning Commission gets everyone's attention. However, a sketch plan is not a submission. It doesn't mean a submission won't come, but in and of itself a sketch plan is not a submission. They don't pay a fee or get an engineering review. It's a discussion point with the Planning Commission. Mr. John Becker thinks Attorney Backenstoe covered it well. It has to be allowed somewhere, and the industrial zone is where it belongs. The industrial zone is along SR 512 which he thinks was a smart move to make it along a highway like that. The golf course has been in financial issues for many years, and there's an alternative use of the property.

TOWNSHIP ENGINEER

Mr. Horvath has nothing on the engineer's report, but he is here if there are any questions at this time.

TOWNSHIP SOLICITOR

Attorney Backenstoe is working with Mr. Horvath at PennDOT concerning the Schiavone farm property. Some of the neighbors are unhappy with water runoff. The driveway installed so the farmer could access the property in no way contributed to the water run off from the large field. However, PennDOT suggested in an email to Mr. Horvath they were going to look into it as if somehow that will impact the closing of the Township's Highway Occupancy Permit (HOP). Mr. Horvath didn't think that was appropriate from an engineering standpoint, and Attorney Backenstoe doesn't think it's appropriate because the Township didn't do anything which would have impacted the water. He thinks the HOP should be closed out as a matter of course like any other HOP when the work is done. He drafted a letter

with Mr. Horvath's input for PennDOT. The person at PennDOT indicated it was forwarded to her superiors. Hopefully, this is something that can be taken care of as a matter of course. The Township didn't do anything to impact any of the water runoff.

Short-Term Rental Ordinance

Attorney Backenstoe said Mr. Harhart was reading about short-term rentals in different areas. Short-term rentals are controversial as owners will ask what business it is to others regarding what they do with their property including renting it to others. This is true, but if the house is being rented out to the detriment of the community, it can become a real problem. The Board asked Attorney Backenstoe to draft an ordinance based on other municipalities with similar populations and configurations. They put together a fairly comprehensive short-term rental ordinance. It went to the Planning Commission, it was cleaned up based on Mr. Harhart's comments, and was sent back to the Board with a recommendation they allow it to be advertised for adoption. It would amend the Zoning ordinance to allow short-term rentals to properly regulate them in the village center district and industrial district as permitted uses. However, there are a plethora of regulations that must be complied with if in fact somebody wants to use their home or place as a short-term rental. They need to apply for a license on an annual basis, have insurance, have inspections, have proper ingress and egress, direct access to an outside door, and a whole number of criteria, about six or seven pages worth. The Planning Commission took a look and felt comfortable sending it to the Board of Supervisors to start the advertising process. It would have to go to the Planning Commission for their comment and approval, the Lehigh Valley Planning Commission for their comment, and advertised for an upcoming meeting no more than 30 days in advance, no less than seven days, in two successive weeks.

Mr. Shaffer made a motion to have Township Solicitor advertise the short-term rental ordinance

Mr. Gable seconded the motion

Public comment

Mr. Gable said Attorney Backenstoe did an excellent job putting this together putting everything that needs to be in the ordinance.

Motion carried with all Supervisors present voting aye

Attorney Backenstoe is going to try and get this ready for the next monthly meeting in April if he can meet all the requirements.

Resolution 2021-08 Deed of Dedication – Bartholomew Lot Line Adjustment

The deed of dedication regarding the Bartholomew lot line adjustment has been signed. Mr. Steiner has the paperwork. If the Board is so inclined to accept the deed of dedication, it is ready for their motion to accept.

Mr. Gable made a motion to adopt Resolution 2021-08 Deed of Dedication – Bartholomew Lot Line Adjustment

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

TOWNSHIP MANAGER

Mr. Steiner submitted the LSA grant purchasing a police vehicle for reimbursement. Chief West informed the Board last month they received the vehicle. He is still waiting for the county recreation grant reimbursement noting the snow needed to melt for them to do the final evaluation.

RESOLUTIONS & ORDINANCES

OLD BUSINESS

Gum and Herd Leases

Mr. Steiner said the Gum and Herd properties should be preserved within the next month or two. Speaking with Mr. Ryan Shaw of Farmland Preservation, the farms could be left unfarmed for up to a year. It could be difficult to sell the properties if there's already a farmer leasing it for the season. Mr. Steiner wanted to know thoughts and feasibility, since the leases aren't signed, of not entering into leases for the Gum and Herd properties so once they are preserved, they can be put out to bid for sale. He asked for guidance from Attorney Backenstoe. Attorney Backenstoe said if it's going to take some time to sell, then leasing it out this year probably won't hurt. On the other hand, if they're concerned, the Board would need to approach Mr. Ronca. This was properly bid, his bid was highest, and his bid was accepted. He thinks the Township has a contract as there was an offer and acceptance. The Board always has the right to accept or reject any and all bids, but they weren't rejected. They were accepted. If the Board doesn't want to proceed with the lease, Mr. Ronca should be called and explained the situation. He's going to continue farming the property behind the Township building, and they'll still have the lease at the Schiavone property. If you think it could be a concern, maybe discuss with Mr. Ronca. If it won't be a problem, don't worry about it and let Mr. Steiner and Attorney Backenstoe work on the leases. Otherwise, the Township will need to ask Mr. Ronca to waive his right to the lease. Mr. Steiner is leaning toward entering into the leases noting the track record for finding a buyer and closing on the properties. It may be fall by the time it closes. He doesn't think Mr. Ronca plants a cover crop. Attorney Backenstoe said technically it's supposed to close in 60 days once you have a buyer, but it's not practical in this day and age. Mr. Shaffer thinks they should honor the bids approved. They don't know when the properties will sell or when they'll be preserved. Like Mr. Steiner and Attorney Backenstoe explained, they could end up closing in September with the season coming to a close. Mr. Piorkowski asked why Mr. Shaw thought we shouldn't enter into the leases. Mr. Steiner said they discussed in December/January, and it sounded like the properties would have been preserved within the next month. It's not moving as quickly as they anticipated. Mr. Steiner thinks the properties won't be preserved for a few months so might as well allow the farmer to use the property. Mr. Gable said they should see what happens noting it took a long time to close on the Dannersville property. Mr. Becker said if they would not honor the leases, the Township would need to maintain the property and mow it at least once a year. If they wouldn't honor the lease, they'd have to maintain the property. The Board decided to honor the leases.

Ordinance Codification

Mr. Steiner said last year, they discussed codifying their laws which would make it easy to search and read but also create a digital copy for the website called eCode360 run by General Code. He asked General Code if their quote from last year was still accurate. It would be just shy of \$16,000 over two years and five payments to codify the ordinances. The Township will need to do a lot of work to scan and send ordinances. General Code will read through and sort the ordinances, organize by topics, look for ordinances that are not enforceable, and submit a package of Moore Township laws for vote. This is the initial cost. After that, it's an annual maintenance fee of \$1,195 per year to make sure it's up on the website and maintained. As they pass new laws, he understands it will be added to eCode360. Attorney Backenstoe asked if he's saying 16 or 60. Mr. Piorkowski said the price is \$16,000 over two years or about \$8,000 per year. The maintenance would be just shy of \$2,000 per year. Attorney Backenstoe highly recommends from a legal standpoint as it makes it more efficient and easier to enforce. Ordinances are sent to them and inserts are added to the codified book. Mr. Piorkowski asked if there was enough in the budget. Mr. Steiner said they budgeted for the first year of costs.

Mr. Shaffer made a motion to move forward with the ordinance codification process

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Generator

Mr. Leon Fenstermaker said they have three prices from Critical Systems, Mike DalCin, and Sparks Electric. The price for Critical Systems was \$16,213, Mike DalCin was \$17,850, and Sparks was \$18,304. Mr. Steiner asked what the difference was between each quote noting each had a different recommendation based on our use. He asked if the prices varied because of the different systems. Mr. Fenstermaker said they're different qualities of generators. There's a Kohler, Cummins, and Generac. Mr. Shaffer asked for his recommendation. Mr. Fenstermaker said the Kohler or Cummins noting the Cummins is right in the Township from DalCin. Mr. Gable asked what they would do with the old one. Mr. DalCin said he might be able to give us money for it, but he didn't include it in the quote. Mr. Gable asked what KW the old one is. Mr. Fenstermaker said it's a 30 KW. Mr. Shaffer said the Cummins is a 36 KW and noted the last one was a 48 KW. He isn't an expert on this, so he wanted to know if 36 KW would be enough. Mr. Hoffman said the DalCin quote has it all explained. Mr. Piorkowski said based on the quotes, Mr. DalCin made an effort to research the problem and make sure it would cover. His recommendation would be accepting the DalCin quote. Mr. Gable noted he's also close for service.

Mr. Gable made a motion to accept the bid from DalCin Electric in the amount of \$17,850 for a 36 KW generator

Mr. Shaffer seconded the motion

Public comment

Mr. Jeff Ayers asked if the warranties are the same on the systems. Mr. Piorkowski said the only quote that discusses the warranty is the DalCin quote with a two-year warranty.

Motion carried with all Supervisors present voting aye

NEW BUSINESS

Zoning Officer policies

Mr. Piorkowski said Mr. Harhart provided them with the policy written years ago for the zoning officer. The supervisors reviewed and would like to make a few changes. Mr. Gable noted it is in regard to the complaint policy. Mr. Piorkowski asked Attorney Backenstoe how the right to know affects an anonymous claim. Attorney Backenstoe served for different Boards over a number of years, and different Boards set this differently. Some Boards only wanted the zoning officer to inspect an issue if there's a written complaint. Another Board would want him to go out on any complaint including an anonymous call. It's completely up to the Board of Supervisors as to whether or not they want to require the zoning officer to only look into written complaints or look into any complaint. The right to know doesn't affect this too much. If somebody makes a complaint, while the complaint is being investigated, it is not to be disclosed under the right to know law. However, if there's a prosecution, that information is going to be known as it will be part of the evidence for looking into the property. Mr. Gable asked what has to be done to have him investigate any complaint. Attorney Backenstoe said they make a motion from this time forward the zoning officer will accept and investigate any and all complaints whether it's reported anonymously or not. He'd have to document when he got the complaint, nature of the complaint, and property of which the complaint was made. Mr. Piorkowski asked if it would be included in the existing policy and replace a section concerning anonymous phone calls or replace the entire policy. Attorney Backenstoe thinks they could make changes in the existing policy. He again reiterated there were some supervisors who didn't want any complaint checked unless there was a name, address, and telephone

number provided. Years later, there would be a new Board very definitive in having the zoning officer look into any complaints regardless of how received. There's a section in this policy that states anonymous complaints won't be answered. If they'd like to change that, they can make the motion and have a new policy drafted. Mr. Lenny Beltz thinks a person should put their name to a complaint. There are people who complain about everything. If there's a complaint very important to him, he will fill out a complaint and give his name. He doesn't think it's worth the time to look at anything unless a name is on it. If there's a legitimate gripe, the person's name should be put to it. It will prevent the neighbor disputes. Be neighborly enough to put a name to the complaint. Without a name, he doesn't think it's a legitimate complaint. Mr. Ayers noted over the course of time he's been on the Zoning Hearing Board, they've had cease and desist complaints. When something comes before the board, they have two motions. The first is whether or not the complaint is valid. The second is to decide whether or not the cease and desist was proper for the zoning officer to issue. Attorney Backenstoe said it's hard to oversimplify it, but yes if Mr. Harhart finds a complaint valid he issues a ceases and desist. Mr. Harhart will call the person to correct without any written notice. Then he will issue a written warning. Ultimately, if it's still not fixed, a formal cease and desist is filed. Somebody who objects has a right to do nothing at which case Mr. Harhart has a right to go to the magistrate with a violation, or the person has a right within 30 days to file an appeal to the Zoning Hearing Board. When people appeal, they either file a challenge to the cease and desist asking to rule they're not in violation, or they file a challenge to the cease and desist and if it is a violation, please grant relief by variance or special exception. Mr. Ayers is right in that the first is to determine if it was right to issue the cease and desist and the second usually concerns relief. Mr. Ayers's point is he thinks it's valid to have the name on the application because they've had instances where people living next to the property didn't have a problem even though the individual may be violating a zoning ordinance. It was someone on the other side of the Township filing the complaint. He agrees if a person has a problem, the person should put their name down for an issue to be rectified. Mr. Becker said the other side is retaliation. Having been a lifelong resident of the Township, he has seen retaliation when the name was put to the complaint. It's why they need to have some way to accept anonymous complaints citing an example. Mr. Beltz said it's a two-edged sword in that someone innocent might get hurt thinking somebody filed a complaint against them who didn't file the complaint. Mr. Piorkowski said any complaint filed needs to be investigated, so it's a matter of somebody making a valid claim who might be afraid of retaliation. If an invalid claim is made, then it's invalid. It's the Township's responsibility to enforce. Mr. Beltz said if it isn't a violation, whatever cost to investigate by the zoning officer should be paid for by the complainant. That would eliminate nuisance and neighbor disputes. Mr. Shaffer thinks they need to look at the policy more and see what other townships are doing. Hopefully there's a happy medium noting all who spoke had valid points. He doesn't want to see a neighborly feud. Mr. Piorkowski tabled the policy to do more investigation and take everything said under advisement. Mr. Shaffer asked Attorney Backenstoe if he can research the other townships he's involved with.

CORRESPONDENCE/MEMOS

Mr. Steiner received a letter from the county for property H6 20 20-D-52T0520. The property was deleted due to the mobile home being torn down. They are asking to exonerate the tax and penalty based on the date of August 1, 2019. Mr. Piorkowski asked how much it was. The tax and penalty is \$30.80. Mr. Gable said they exonerated these in the past.

Mr. Gable made a motion to exonerate the \$30.80 for property H6 20 20-D-52T0520

Mr. Shaffer seconded the motion

Public Comments

None

Motion carried with all Supervisors present voting aye

An email was received from Mr. Noah Reichelderfer who is involved in Northampton Area High School's National Honor Society. They are supporting and raising funds for The Leukemia & Lymphoma Society's Students of the Year Greater Lehigh Valley campaign. They're looking for a donation. Mr. Steiner wanted to bring it to the Board's attention. Mr. Gable noted we have not donated to these in the past.

A letter from FEMA regarding updates to the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report was received. They're doing studies around the creeks and updating flood water maps. It doesn't have specific dates or time periods, but they are taking a look at the floodplains.

A letter was received from Lehigh Valley Municipal Services. Mr. Steiner asked the Board to take a look and see if there are any services being offered that may be of interest to the Board. In the future, we may want to look into software for permitting.

The Fire Department provided the accounting of how Township funds were spent. It's supposed to be provided annually.

Finally, a letter is provided by the Zoning Hearing Board concerning the business discussed at the January meeting.

OPEN TO THE FLOOR

ADJOURNMENT

Mr. Shaffer made a motion adjourn the meeting at 7:13 PM

Mr. Gable seconded the motion

Public Comments

None

Motion carried with all Supervisors present voting aye

Respectfully submitted

Nicholas C. Steiner
Township Manager

Not intended to be word for word, but a synopsis of the meeting.