

**Moore Township Board of Supervisors**  
**2491 Community Drive**  
**Bath, PA 18014**  
**May 3, 2022**

The Regular Monthly Meeting for the Moore Township Board of Supervisors (BOS) was called to order on Tuesday, May 3, 2022 by Chairman Daniel Piorkowski at 6:00 PM. The meeting was conducted at the municipal building. Members present were Chairman Daniel Piorkowski, Vice Chairman David Shaffer, Supervisor Michael Tirrell, Township Manager Nicholas Steiner, Township Solicitor David Backenstoe, and Township Engineer Kevin Horvath from Keystone Consulting Engineers (KCE).

The next meeting is a workshop on Thursday, May 26, 2022 at 6pm, and the next regular meeting is Tuesday, June 7, 2022 at 6 pm.

**SUB-DIVISIONS AND LAND DEVELOPMENT**

**WAIVERS & DEFERALS**

**REGULAR BUSINESS**

**MINUTES**

**Mr. Shaffer made a motion to approve the minutes from April 5, 2022**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

**FINANCIAL REPORT**

**Mr. Tirrell 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 \$143,476.53. The Liquid Fuels bills are \$12,725.27.

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

**APPROVE PAYROLL**

**Mr. Tirrell 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 report for April 2022.

## **FIRE & AMBULANCE**

Mr. Jason Harhart read the March 2022 report.

## **PUBLIC WORKS DEPARTMENT**

### **Part-Time/Seasonal Employment**

Mr. Craig Hoffman and Mr. Steiner conducted interviews with two candidates. Mr. Hoffman's first recommendation is Albert Hawk at \$18.50/hr.

**Mr. Tirrell made a motion to hire Albert Hawk at \$18.50 per hour**

**Mr. Shaffer seconded the motion**

### **Public comment**

None

**Motion carried with all Supervisors present voting aye**

Mr. Piorkowski said they held an executive session Thursday, April 28, 2022 to review the applications and salaries. Ms. Jennifer Weidner asked if it is part-time hours. Mr. Hoffman said Mr. Hawk will be part-time during the summer.

The second recommendation is Michael Steuer at \$15/hr.

**Mr. Shaffer made a motion to hire Michael Steuer at \$15.00 per hour**

**Mr. Piorkowski seconded the motion**

### **Public comment**

None

**Motion carried with Mr. Piorkowski and Mr. Shaffer voting aye, and Mr. Tirrell abstained**

For the month of May, Mr. Hoffman said the Public Works Department plans to do roadwork and asked drivers be alert requesting they slow down when passing by. Mr. Tirrell asked if the sweeping was complete, and Mr. Hoffman confirmed it is done.

## **FIRST REGIONAL COMPOST AUTHORITY (FRCA)**

### **NAZARETH COUNCIL OF GOVERNMENTS (COG)**

No meeting for the month, but Mr. Piorkowski said they made a presentation to the Planning Commission (PC). He was not present but heard it was shorter than that presented to the COG. Mr. Shaffer attended the meeting and said everything went well. It was great to see municipalities coming together to make the plan noting it details Moore Township and desires of the residents well. He thanked Mr. Piorkowski and Mr. Harhart for attending meetings.

## **RECREATION COMMISSION**

### **Playground Installation**

Mr. Hoffman received a quote from Playground Boss in the amount of \$8,615 to install the playground. July might be the earliest to install, but he may off until the fall due to Playground in the Park. Ms. Jodi Hartzell asked approval for the playground company to install the playground. Mr. Shaffer asked who accepts liability. Mr. Hoffman said the company would accept liability for the way it's constructed with Attorney Backenstoe noting that since it's installed on Township property, if there's an issue it would be

on the Township. If there's an equipment failure, the company who constructed would be held liable. Mr. Steiner asked how the Recreation Commission would like to pay for it. Ms. Hartzell said they would like to use the Enterprise fund.

**Mr. Shaffer made a motion to approve Playground Boss install the playground at the Recreation Center for \$8,615 out of the Enterprise account**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

### **Playground in the Park**

Ms. Hartzell said Playground in the Park will be Fridays from June 17 through August 12. They previously asked for \$1,000 for Playground in the Park but would like \$2,000 because there aren't as many donations, and supplies were damaged in the wellhouse. Mr. Steiner previously thought an outside group ran this program. This is the only program in which the Township has provided money without asking for receipts. He wanted to make sure everyone was ok with that. He also said background checks should be done for any volunteers, and if Ms. Julie Poniktera has them, the Township should have them on file. Ms. Hartzell said the majority of her assistants are students, but she will check. Attorney Backenstoe doesn't think minors need the background checks. Mr. Tirrell thinks Ms. Poniktera has the clearances since she is a teacher. Mr. Shaffer would like receipts provided. Mr. Tirrell reiterated a lot of stuff got wet, so she is replacing more than she normally would.

**Mr. Shaffer made a motion to approve \$2,000 for Playground in the Park on Fridays from June 17 to August 12**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

Mr. Tirrell thanked the Recreation Commission for running the program noting the kids love it. Mr. Steiner will post a flyer on the website if there is one.

### **Security Cameras**

Ms. Hartzell asked if the Board would consider security cameras at the Recreation Center. Chief West spoke to Mr. Jason Dittmar of Simplistic Computer Solutions, the company who installed the municipal building cameras. He prepared a quote based on his visit to the Recreation Center. A meeting will be scheduled between Mr. Dittmar, Chief West, Mr. Hoffman, and Mr. Steiner in the next couple weeks.

### **Moore Elementary Pavilion and Field Rental**

Ms. Hartzell said the Recreation Commission will officially approve the pavilion and field rental for Moore Elementary at their next meeting, but they wanted to see if it could be approved at no cost to the school. Since the reservation is May 25, Mr. Steiner wasn't sure if it would be too long to wait for the Recreation Commission meeting. The Moore Elementary fifth grade would like to rent out the park for the day. Mr. Steiner didn't think it was an issue noting Mr. Hoffman will get signs to reserve the spaces at the park. Mr. Piorkowski and Ms. Hartzell said they did this in the past and the fee was waived. Mr. Shaffer also noted the school has allowed them to hold meetings, so he's more than happy to waive the cost.

**Mr. Tirrell made a motion to waive the fee for Moore Elementary for fifth grade field day**

**Mr. Shaffer seconded the motion**

**Public comment**

Someone from the crowd asked for the date. It is May 25, with a rain date of May 26.

**Motion carried with all Supervisors present voting aye**

### **HISTORICAL COMMISSION**

Mr. Tirrell was unable to attend the meeting, but they scheduled a walkthrough of the school with the supervisors to show progress and provide an update. Mr. Steiner said the workshop with the Board of Supervisors will be May 24 at 6:30 pm at the Edelman Schoolhouse followed by their regular monthly meeting. Mr. Jesse Longley is still working on getting information for the schoolhouse signs.

### **LAND & ENVIRONMENTAL PROTECTION BOARD (LEPB)**

#### **Schiavone Park Updates**

Mr. Bob Romano said they have about twenty trees being planted in May or June. A lot of the holes are dug. He thinks deciduous trees are being planted first followed by evergreens.

Mr. Romano spoke to the company at the fish hatchery concerning fish stocking. They have a variety of fish. The hatchery can't get a truck into the park until it dries up. They hope to have them delivered by the end of May. Fish will be smaller, but a lot more of them, and they will grow. Mr. Tirrell asked if they will just go in the upper pond. Mr. Romano said both. Public Works is building cover that will be placed in the ponds for the fish. The fish hatchery gave them a design of what they need to do. This should be good for the kids.

#### **Bartholomew Open Space Preservation**

The LEPB received an application for open space preservation at the Warren Bartholomew property on North Road. It is approximately 60 acres of farmland, open space, wetlands, woodlands, and a lot of road frontage which means it's very easy to develop. The board highly recommends this go into preservation. They have a cost for the Township of about \$60,000 for expenses not including the easement costs. Easements are coming in at about \$4,500 per acre. The costs would be the appraisal, survey, phase 1 environmental, baseline documentation report, legal fees, and endowment. It will be about \$55,000 which is in line with previous parcels. This property will be assigned to Wildlands Conservancy.

**Mr. Tirrell made a motion to move forward with the Bartholomew open space preservation**

**Mr. Piorkowski seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

#### **On-Site Wind and Solar Generation**

The LEPB would like to make a recommendation for renewable energy for large commercial buildings. This would include buildings like warehouses. They recommend large commercial buildings install onsite wind or solar generation to cover all, or a significant portion of, their energy consumption since they'll be large energy consumers. This recommendation comes from the Township open space plan to preserve the rural nature of the Township along with goals of the Lehigh Valley Planning Commission (LVPC) and Nazareth Area Comprehensive Plan. Mr. Romano thinks this has been brought up at other townships and the county level. They can't retrofit buildings because most of the roofs were not designed for it, but anything new could be designed for it. Instead of taking up fields for solar panels, roofs would be the ideal location. It is a recommendation for the Board to consider. Mr. Shaffer asked Attorney

Backenstoe if they could amend their warehouse ordinance to require this. Attorney Backenstoe said they could do an amendment to the current zoning ordinance by way of that recommendation. Mr. Shaffer asked if it would go to PC, and Attorney Backenstoe said it would need to be on the PC agenda. Assuming they want to proceed with it, they will ask Attorney Backenstoe to review how it fits with current ordinances and prepare an amendment. Once they think the ordinance is ready, it will be sent back to the Board of Supervisors to review, advertise, and vote on. Mr. Shaffer asked if anybody had questions on this idea. Mr. Tirrell hopes Planning is very specific to prevent the requirement on barns or old buildings as he doesn't think they should choose what kind of energy a barn should use. Mr. Romano said it would be more so for buildings with big, flat roofs, and an entity wanting to construct a building that could put a strain on the power grid in a rural township. Mr. Jeffrey Ayers said the zoning ordinance only allows a residential place like a barn to generate a certain percentage over what electricity they use on that location. Power companies wanted to use a site with solar power without paying for power generators while receiving green tax credits. The zoning law was changed so only residential can only install so many solar panels and generate a percentage over what they use annually. The resident can sell that amount. They tried limiting companies from coming into the Township and using residents' properties, citing a church with a field as an example, from generating power in the Township without paying taxes. It would be an auxiliary for the church because the church would get free power. They decided if that many solar panels are placed on the property, they can only put up so much. Mr. Piorkowski said they do mention towers and windmills in their zoning ordinances. Mr. Ayers said residents can't put up a windmill farm and say it's an accessory use. Mr. Piorkowski asked if current zoning concerning windmills and towers would be affected by this. Mr. Romano said they are thinking along the lines of commercial buildings, not residential. Mr. Tirrell asked if a business, like Weddes, wants to put up a new garage, or the Iron Works puts on an addition, is the Township going to force them to put solar panels on the roof. Mr. Romano said that's a good question as they were thinking large commercial buildings. He wasn't thinking of a building like Weddes. Mr. Piorkowski said this is something Planning will need to see if there are any conflicts with existing law and if it is something that can be applied to commercial buildings like warehouses.

**Mr. Shaffer made a motion to add on site wind and solar generation discussion to the agenda**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

**Mr. Shaffer made a motion to pass on site wind and solar generation to the Planning Commission**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

### **Site Plan Review**

The LEPB recommends any subdivision plans that would normally just go to the PC also be passed to the LEPB to review from a preservation and environmental perspective. Other townships have their Environmental Advisory Councils (EACs) do this. Attorney Backenstoe asked confirmation they would not be making technical and engineering recommendations but simply providing input concerning the environmental impact or issues that could be addressed. Mr. Thomas Roberts said it wouldn't be technical in engineering terms, but they would look at conservation easements citing examples of a property in or near the Hokendauqua Creek, in the greenway corridor by the Appalachian ridge, etc. They might make recommendations to the Board for the developer to do something to offset any type of

environmental or conservation issues that may occur down the road. Mr. Piorkowski asked if it would be a workshop between Planning and LEPB. Mr. Romano and Mr. Thomas said it would come to LEPB at the same time. Mr. Piorkowski and Mr. Tirrell said one has to be first. Attorney Backenstoe thinks they would amend the SALDO creating another layer of review. The SALDO directs and dictates how a plan comes in, whether preliminary or final plan, minor or major subdivision plan or development. Mr. Harhart said Bushkill Township has been doing it for twenty years. Ms. Belinda Roberts explained when a plan is submitted to Bushkill Township, a copy is provided to the EAC. The plan is reviewed during their meeting. A copy of the plan is also provided to the PC to review at their meeting. When it comes to the Board of Supervisors or next step, the EAC provides a letter of recommendation, and the PC provides their letter. The Bushkill EAC meets the second Thursday of the month, and the PC meets at the end of the month. The EAC letters goes to the PC and then the Board. Mr. Tirrell asked confirmation it is all subdivisions, and Ms. Roberts confirmed it is all subdivisions. They also look at the conservation perspective using an example of a 90-acre lot where the Township would ask for 30 acres to be preserved limiting building to 60 acres. This process gives the opportunity to ask these questions and give recommendations before the plan is approved. Mr. Romano explained how this was discussed when the open space plan was first developed. They have corridors with headwaters of streams and creeks, and he doesn't think it's something the PC would look at. Attorney Backenstoe said the PC wouldn't have the authority to review those aspects and notes his familiarity with municipalities who do incorporate their EACs in the process. Mr. Piorkowski understands the process of LEPB providing a recommendation to Planning. He asked if they need a recommendation to amend the SALDO, and Attorney Backenstoe said they do. The Board would follow a process previously described where the Board would send it to the PC to review and prepare a draft for the Supervisors for passage. Mr. Shaffer thinks this will be looked at as a power move by some individuals in the Township, but the LEPB is not looking to step on the PC's toes. Mr. Piorkowski understands adding them into the process because they currently do not look at these issues. Attorney Backenstoe said they may hear complaints of increased costs related to another review while noting it's an important part of the process. Mr. Piorkowski asked Ms. Roberts if the applicant is required to attend the EAC meeting in Bushkill. Ms. Roberts said they are not required to attend, and there are no additional fees.

**Mr. Shaffer made a motion to send the site plan review by the Land & Environmental Protection Board to the Planning Commission to have them discuss and come up with criteria using neighboring municipalities for direction, and to consider adopting an amendment to the SALDO**

**Mr. Piorkowski seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

**Electric at Schiavone Park**

Mr. Hoffman met with an electrician, Mr. Mike DalCin, for electric at Schiavone Park. Overhead electric is cheaper noting the electric will be built into a shed and then out to the ponds, so a panel isn't sitting out in the open. Leaving it out in the open could lead to damage by vandalism, kids fishing, etc. He is looking to move forward with putting in electric overhead at Schiavone for \$6,675.

**Mr. Tirrell made a motion to move forward with overhead electric at Schiavone Park via the plan presented by Mr. Hoffman in the amount of \$6,675**

**Mr. Shaffer seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

### **Trees at Schiavone Park**

Mr. Shaffer noted the budget included trees at Schiavone Park the last couple years but never got around to it due to COVID. They had some vandalism by the parking lot, so the plan is to plant a tree and place boulders in alternating fashion to prevent future vandalism. Adding more trees will also be aesthetically pleasing and better for the environment. They are looking to plant twenty trees from a local tree farm, Hidden Pines, not to exceed \$4,500. These are larger trees instead of twigs.

**Mr. Tirrell made a motion to approve twenty trees and boulders at Schiavone Park for no more than \$4,500**

**Mr. Piorkowski seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

### **COMMUNITY DAYS COMMITTEE**

Ms. Lois Kerbacher said the purse bingo was moved to Bushkill fire hall because of the fire at the Klecknersville Rangers. It worked out well. Bushkill was able to reschedule an event to fit them in. They provided a \$200 donation to the fire company from the profits made that day because they moved the event and cleaned the hall for them. On the whole, it was good despite losing some people. They have a movie night in May, and the first concert will be in June. Mr. Shaffer asked who is playing, and Mr. Tirrell asked when the movie night is. Mr. Steiner said the information can be found on the website noting May 20 will be the movie night, and June 10 will be Triple Dog Dare concert in the park.

### **ZONING AND BUILDING OFFICER**

Mr. Harhart submitted his report for the month.

### **James and Rose Danner Subdivision 866 Point Phillips Road Plan Recording**

Mr. Harhart introduced Mr. Dennis Mohr, the current owner of the property. The property was subdivided in the early 1980s. It was approved by the Township and signed, but for whatever reason, a lot of plans weren't recorded in the 1980s or assigned separate tax parcel IDs. In this case, Northampton County recorded the plan but didn't assign three separate parcel ID numbers. As long as the Board is ok with them assigning separate tax parcel ID numbers, Mr. Mohr needs a letter from Attorney Backenstoe to record the plan. Mr. Harhart summarized it was a three lot, minor subdivision that looks like it meets all of today's standards. In the 1980s when a property was owned by the same owner, the county apparently didn't assign separate tax parcel IDs. Attorney Backenstoe said they found several plans over the last few years that were approved and never recorded for whatever reason. Under the Municipalities Planning Code (MPC), it's the developer's engineer who has the obligation to record the plan within 90 days. Some townships assign that to the Township Engineer. The plan was approved but never recorded, so the lots can't be sold, built upon, or have separate tax ID numbers. Attorney Backenstoe said there could be several reasons why the Township wouldn't want a plan recorded now. When a plan is approved, the owner has a five-year status under the MPC where they're protected, and no new ordinances would affect the plan in anyway. If a plan hasn't been recorded in twenty years, technically, every amendment to the ordinance would apply to the plan. The owner would then need to resubmit the plan. When learning of this property, they didn't know it was recorded. Most of the time, there isn't going to be a major impact and the plan can be recorded twenty, thirty years later. However, if the plan, which might've complied with different requirements in the late 1970s or early 1980s, now would create an environmental problem, the Township would not approve it. This situation is different in that the plan is recorded, and it's the fault of the county for not assigning separate parcel numbers. Mr. Harhart

acknowledged the county did take fault with that. Mr. Kevin Horvath did a cursory review. One issue concerns the septic systems being tested in accordance with today's standards noting he can't tell from the plan. Another environmental issue is the NPDES permit requirement that has since passed. The fact that it's approved doesn't excuse any compliance with the NPDES permit. If the owner or developer starts building all three lots at one time and exceeds an acre of disturbance, the developer is required to comply with those permits regardless of the plan being recorded and tax parcel IDs issued. As far as septic, Mr. Horvath could not answer the question noting Mr. Chris Noll wasn't in the office to discuss. Mr. Piorkowski summarized it's approved as far as the septic is concerned because the plan was approved to whatever the septic was at the time. However, the NPDES permit would need to be complied with. Mr. Horvath said it doesn't automatically mean it will be triggered, but the idea that it could be needs to be taken care of. If it's built separately on three individual lot plans, it probably won't be an issue. Mr. Mohr has been trying to reach Mr. Noll but has been unable to reach him. Mr. Horvath said it's not just for administrative purposes but for the fact he may have a soil that may not support a proper septic system or may cause improperly treated sewage to leach toward the well. There are practical reasons to be concerned, and it sounds like the owner understands. Mr. Mohr also doesn't see each parcel being developed at one time noting there is a trailer on one of the lots. Attorney Backenstoe explained there may be some concerns with the lot, but if it's recorded there's nothing they can do about the plan. This doesn't mean that if someone builds on an individual lot they don't comply with current NPDES standards or MS4.

**Mr. Shaffer made a motion to authorize county mapping to add the tax ID parcel numbers as required**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

## **TOWNSHIP ENGINEER**

### **Schiavone Farm Sediment Erosion Project**

Mr. Horvath said the Township is on the contractor's schedule to get the final seeding complete. It looks good as far as how it weathered the winter. Work is expected to be complete before the next meeting.

### **Schiavone Farm HOP**

The Public Works Department completed the PennDOT approved roadside channel that will allow water to flow where it was initially intended to flow, which is downhill toward the cross pipe and not ponding in front and overflowing into the residents across the street. This will, hopefully, take care of some overtopping issues, not every issue noting there's a lot of water that comes down the hill to pipes that are well undersized. Even up to a two-year storm, he is hoping to get the water across the street without problems the Township has encountered. Mr. Piorkowski asked if that means the Township has the permit. Mr. Horvath explained the Township always had the permit. This allows PennDOT to close out the permit. Now that the work is complete, Mr. Horvath will schedule a final inspection and close out with PennDOT. The next step would then be to record the subdivision plan with Attorney Backenstoe explaining they didn't want to record it until they had the Highway Occupancy Permit (HOP) closed. The Township can then sell the property. Mr. Steiner said the Public Works Department did a good job noting it's amazing what should have been there versus what was there.

### **Pool Road**

Mr. Steiner reiterated remarks from last meeting that the Township received feedback from PennDOT noting different people in the department had different ideas of what kind of signage should be installed.

Keystone updated the schematic, and Mr. Steiner sent it this morning to PennDOT. Mr. Horvath explained how PennDOT would not authorize installation of the advanced or “No Left Turn Ahead” sign, so the proposed signage would be limited to the four signs at the intersection. Once the Township receives approval, the signs can be posted.

### **MS4 Projects**

Mr. Horvath explained they made initial contact to the property owners requiring basin conversions. He was encouraged all property owners were initially receptive. He spoke at length with each of them. Following those conversations, he put together a list of items to be addressed in an agreement that would allow the Township, including its designees, access to the properties to cover the Township in the event of any issues from a liability standpoint as well as the homeowners. The information was sent to Attorney Backenstoe and Mr. Steiner. Attorney Backenstoe is putting together a streamlined, clean agreement that is a matter of the Township going onto the property, converting, and maintaining the basins. The Township will do all it can to put it back in the condition property owners had before the Township went onto the properties. Mr. Horvath said each property is a little different. Once those agreements are signed, Keystone can then access the properties to design the basins.

### **Road Plan Update**

Mr. Horvath sent Mr. Steiner an excel spreadsheet at the request of the Board with all the data in the Township’s GIS which included every road, segment, condition, width, surface material, etc. It’s probably less useful in tabular format than GIS format. If the Board needs assistance understanding the road conditions, they can reach out to Mr. Horvath. Mr. Tirrell said some of the roads are broken into five different areas. He asked if the sheet can be organized alphabetically. Mr. Steiner said he can sort and filter in the Excel sheet for the Board with Mr. Horvath noting he or they can sort in excel by whatever category they prefer. Mr. Horvath said looking at it in tabular format is missing the big picture whereas GIS gives a better feel and is more user friendly. It is a possibility to share the system to the Board, but for now he will share in whatever format they choose.

A workshop open to the public will be held Thursday, May 26 to discuss the road plan.

### **2022 Road Projects**

Keystone advertised for bids the 2022 road resurfacing project which included about 2.3 miles of roadway. They included S. Cigar Rd, Love Rd, portions of W Beersville Rd, and a small area of Sickie Rd. It is in the southwest quadrant of the Township which was important for purposes of economy of scale and the most cost effective for the Township. These roads were in reasonable condition that can be prolonged through a double oil and chip process. They advertised for bids about two weeks ago, and bids were opened this afternoon at 1:30 PM. They received a single bid from Asphalt Maintenance Solutions, LLC (AMS) in the amount of \$129,133.50. This was pretty much in line with their expectations. Keystone recommends the Township award the bid based on the bidder satisfying the requirements of the contract documents. Mr. Piorkowski asked confirmation they’re one of the few companies still in business doing this kind of work. Mr. Horvath said they’re a very qualified contractor, PennDOT pre-certified, and one of the few outfits still around for whatever reason.

**Mr. Shaffer made a motion to approve the Asphalt Maintenance Solutions bid of \$129,133.50 for the 2022 road treatment project**

**Mr. Tirrell seconded the motion**

**Public comment**

None

**Motion carried with all Supervisors present voting aye**

Mr. Piorkowski asked if there's a start date. Mr. Horvath said they pushed it off toward the end of the season because they're late in the bid process and to allow Public Works to get the roads prepped for the oil and chip. They're thinking mid-September to mid-October, and it will take them one day. Dates are established in the contract, but if the Township gets done early, Mr. Hoffman can reach out to AMS.

### **Culverts on Church Rd and E Walker Rd**

Keystone completed a field survey of the E Walker Rd site noting they previously completed the Church Rd site and had it designed. They had the emergency permit for Church Rd extended and have a permit pending for E Walker Rd. He would like to finalize the design of the culverts and present cost estimates at next meeting. Upon their authorization, Keystone will prepare specifications and advertise bids for the project. The Board would like to move forward with that plan.

### **TOWNSHIP SOLICITOR**

#### **Authority to Consult Zoning Specialist**

Attorney Backenstoe explained on occasion issues come up where Townships hire a consultant. About the warehouse issues, he would like to consult a zoning specialist, Attorney Jim Preston. He's a lawyer in Bethlehem and, in his mind, the best zoning attorney in the area. He would like approval to run any thoughts by him regarding the warehouse. Mr. Piorkowski asked if he would be paid per hour and what the rate is. Attorney Backenstoe confirmed it would be hourly at \$150 per hour. He normally charges \$400 per hour, but he feels \$150 per hour is a fair municipal rate. Mr. Piorkowski asked if there are any issues to talk with him about at this time. Attorney Backenstoe would like to talk to him about some issues that have been raised before the Zoning Hearing Board. They may come up with issues before the Board at which case Attorney Backenstoe may be representing the Board. The Supervisors may want someone to represent the Township for the Board. If that issue were to come up, they would deal with it then. For now, he would like permission to consult.

**Mr. Tirrell made a motion to appoint Attorney Jim Preston as zoning consultant at \$150 per hour**

**Mr. Shaffer seconded the motion**

#### **Public comment**

None

**Motion carried with all Supervisors present voting aye**

### **Subdivision Improvements Agreement**

Attorney Backenstoe explained there was some confusion with how townships deal with land development plans requiring improvements agreements and posting letters of credit. When a land development plan or subdivision plan is submitted, many times they're simple and don't require many improvements. Other times, there are larger developments with a lot of improvements required noting the Wheel Collision land development plan that came in. The plan comes to the Township, is accepted, reviewed by the PC, and when appropriate, grants conditional approval which will then be submitted to the Board. The Board will then grant conditional approval. Some conditions require public improvements, including roads, drainage systems, etc. The Township needs to ensure the work is done properly so that one day when taken over by the Township it's in good, working condition. If the developer goes belly up without finishing the improvements, the Township is responsible for those improvements. When a plan is going to be recorded, there is generally a number of issues including roads, curbing, sidewalks, etc. Attorney Backenstoe or Mr. Horvath will ask the developer to put together a cost estimate for the improvements. This list is itemized, submitted, and reviewed to ensure the amounts are accurate. Attorney Backenstoe will then put together an improvements agreement which may be a subdivision improvements agreement or a maintenance improvements agreement. Under the

NPDES laws, Attorney Backenstoe also prepares a Best Management Practices (BMPs) or stormwater agreement. Mr. Horvath will review the agreements, and the improvements agreement are approved, signed, and notarized by the developer and Township. The engineer inspects the work being performed, and the Township holds a cash escrow for the developer to pay for work performed by the engineer. As the improvements are completed, the cash escrow funds are disbursed or released. The overall security is usually cash, a letter of credit, or bond. A letter of credit is always preferred especially for large, expensive projects. If the developer goes belly up, the Township will pull the letter of credit to use the funds, so taxpayers aren't paying for a failed subdivision plan.

In this situation, the developer accepted and signed the improvements agreement. The Township has the agreement, and the Board will need to sign off. He would like to talk to their representative about posting a letter of credit. In this instance, the Township is looking at \$72,000 in improvements. The developer wants to post a bond. A letter of credit is as good as credit because it's a representation from a bank that says if the developer defaults, the Township can pull the funds from the bank with the letter of credit. A bond is authorized by the MPC, so the Township ultimately must accept if that's all the developer will come forward with. It can be a problem as he has never had a bonding company do the work. At a number of townships he worked for, he's always been able to pull the letters of credit even though it could be in the millions. He's never seen a bonding company that stands behind the process and has had to sue to get the bond paid out. In this case, they're talking about posting a bond in the amount of \$72,000. Ms. Kerbacher said they did post a bond, but she spoke to the developer and told them the Township would prefer a letter of credit. She pulled a copy of a letter of credit and sent a copy that they can take to the bank to draw up the letter of credit. Attorney Backenstoe said that's good and told Ms. Kerbacher that was well done. It is important the Township keep track of the expiration of the letter of credit because if the Township misses that date, and the Township doesn't call the letter of credit or have the entity renew, it is in default. The Township would be on the hook for improvements if the developer shuts down. Mr. Piorkowski asked the difference between the cost of a bond and letter of credit. Attorney Backenstoe said the letter of credit is more expensive because the bank is ensuring it's there. A bond company is ensuring they'll do the work if the developer defaults. There are construction projects where a bond is appropriate. For example, the bond ensures the work of a contractor the Township engages with. That's a performance bond, not a security bond. When getting into the millions of dollars in security for a letter of credit, it gets more expensive because the bank is saying the money is there if the developer defaults. Therefore the developer wants to do the work as quick as possible and come to the Township for draws to reduce the letter of credit. Every time the Township issues a letter reducing the letter of credit, it costs the developer less. The maintenance period is 18 months following the Township's acceptance of improvements. The maintenance amount, by law, is 15% of the overall amount secured in the first instance. The bond is cheaper because it's not money in hand but a promise to do a performance. In his experience, the bonding companies work very hard to not do the work. Most banks will issue evergreen language which indicates the bank has to automatically renew the letter of credit every year, and it can't reduce it without 60 days' notice which is enough time to put together a default package and pull the letter of credit.

## **TOWNSHIP MANAGER**

### **Embassy CD Renewal**

A smaller recreation Certificate of Deposit (CD) in the amount of approximately \$6,300 is up for renewal. Mr. Steiner asked the Board if they are good with the automatic renewal. The rates remain low. The 12-month will be .15% APR. The Board was fine with letting it automatically renew.

Mr. Steiner mentioned they are in the next phase of the General Code project. He will reach out to Attorney Backenstoe, Mr. Horvath, Planning, or Zoning if they need assistance in code codification.

## **RESOLUTIONS & ORDINANCES**

### **OLD BUSINESS**

#### **Agritainment/Agritourism Zoning Laws**

The agritainment/agritourism issue was tabled last month. Mr. Piorkowski recommended sending the North Whitehall ordinance with Mr. Shaffer's notations to the PC for review and recommendation. Mr. Tirrell agreed noting he liked Mr. Shaffer's recommendations.

**Mr. Shaffer made a motion to send the North Whitehall ordinance with his corrections to the Planning Commission**

**Mr. Tirrell seconded the motion**

#### **Public comment**

None

**Motion carried with all Supervisors present voting aye**

#### **Municipal Building**

No updates.

### **NEW BUSINESS**

#### **Parks and Recreation Open Space Plan Workshop**

At the last meeting, Mr. Steiner brought up the idea of a parks and recreation open space plan. Ms. Sherry Acevedo is willing to come to a workshop and explain all that it would entail. The Recreation Commission indicated they would be interested in this meeting. If the Board is so inclined, Mr. Steiner will reach out to Ms. Acevedo to schedule a workshop. Mr. Piorkowski asked him to reach out and try to set up the meeting.

### **CORRESPONDENCE/MEMOS**

#### **OPEN TO THE FLOOR**

Mr. Ayers spoke to the subdivision improvements agreement and agrees with Attorney Backenstoe. He gave Ms. Kerbacher credit knowing during the late 1990s into the 2000s, Ms. Kerbacher always knew when the line of credit would run out. After 2008, 2009, he can remember three subdivisions that went belly up where they needed to pull the letters of credit to finish. He agrees the Township needs to make sure it has the letter of credit noting Ms. Kerbacher has done a great job. Mr. Piorkowski thanked the compliment for her noting she deserves it.

Ms. Weidner provided a message from her husband. He thanked the Township for improving the bottom of Pool Road and cleaning up the cinders because he can now drive his bike on Pool Road.

Ms. Kim Bretzik from the Northampton Area School Board thanked the Board for the letter of support for Moore Elementary expressing the Township's concerns for the Moore residents.

### **ADJOURNMENT**

**Mr. Shaffer made a motion adjourn the meeting at 7:35 PM**

**Mr. Tirrell seconded the motion**

#### **Public comment**

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.**