

**Moore Township Board of Supervisors**  
**2491 Community Drive**  
**Bath, PA 18014**  
**August 4, 2021**

The Regular Monthly Meeting for the Moore Township Board of Supervisors (BOS) was called to order on Wednesday, August 4, 2021, by Chairman Daniel Piorkowski at 6:00 PM. The meeting was conducted at the Klecknersville Rangers Volunteer Fire Company fire hall. 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).

**SUB-DIVISIONS AND LAND DEVELOPMENT**

**WAIVERS & DEFERALS**

**REGULAR BUSINESS**

**MINUTES**

**Mr. Shaffer made a motion to approve the minutes from July 7, 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 \$136,106.16. The Liquid Fuels bills are \$21,732.28.

**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 report for the month of July 2021.

**FIRE & AMBULANCE**

Mr. Jason Harhart read the most recent month's fire and ambulance report.

### **PUBLIC WORKS DEPARTMENT**

Mr. Craig Hoffman said they continue to work on Dell Road. Finishing up prep to start with the overlay.

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

Mr. Gable said the FRCA is in a restructure as the director resigned. Mr. Zack Walczer is interim director. There have been a couple glitches but are working everything out. Hours for public access at the Weaversville Road site will be Wednesday and Friday from 9am to 5pm, and the first and third Saturdays from 8am to 1pm. The commercial portion is open Monday through Friday from 8am to 4pm with no Saturday hours. Diameter of logs allowed is 12 inches. They're getting logs 24 in. to 36 in. in diameter, and they cannot grind them. They will no longer accept anything over 12 inches, stumps, sod, and bamboo. If they put bamboo through the grinder, a piece can fly out like a spear making it dangerous to grind. They are picking up from the satellite sites again. They are short staffed and are looking for people to work the yard and drive part-time. The person must have a CDL. Anybody interested, please contact the FRCA.

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

No meeting.

### **RECREATION COMMISSION**

Mr. Mike Tirrell said they are finalizing the volleyball set and should have the information to Mr. Steiner next week. Someone asked about pickleball lines on second tennis court. Mr. Tirrell said it wasn't approved, they went with one. The person said they listened on the call and it was unanimous to have both courts lined for pickleball. Mr. Gable said the vote was 2-1 to line one of the courts. Mr. Piorkowski said it was 2-1, and he wanted to line both of them. The person said they had eight people there last night. Mr. Gable said the reason was somebody said the extra lines on the tennis court makes it tough to play doubles in tennis with extra lines. They left one for tennis, and one for pickleball at this time. If it becomes a problem and they need to do both, they still can. They decided to try with one. Someone said other Rec Centers have three colors in gyms. Mr. Gable said they voted it based on this reasoning a couple meetings ago at the supervisors meeting.

### **HISTORICAL COMMISSION**

Mr. Gable said they didn't have a meeting the past month but will have a meeting tomorrow evening. Work on the school is progressing well. They plan to have Oktoberfest on October 14 at the Klecknersville Rangers catered by Latteman's Catering. He isn't sure of ticket prices. In 2019, tickets were \$18 for single, \$35 for couple. Mr. Larry Oberly, a local historian, will be the speaker. There will also be a basket social. He asked the rest of the Board if its ok they have Oktoberfest, and everyone was ok with it.

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

Mr. Bob Romano said the annual open space open house is Monday, September 13 at 7pm at the Recreation Center pavilion. Dawn Gorham will do a presentation through the Wildlands Conservancy. Anybody interested in preserving their land or land preservation in general is welcome.

### **Open Space Evaluation**

Attorney Backenstoe said the LEPB, who continues to determine and evaluate properties to put into land preservation with success, wanted to amend their current criteria. Over the last couple years, they saw issues come up and thought certain aspects of reviewing land are important when determining if its proper

to preserve. They put together criteria, and he thinks the Planning Commission, LEPB, and Board of Supervisors reviewed the evaluation. Attorney Backenstoe was asked to review to see if there was anything inappropriate with the new criteria. He does not see anything inappropriate and thinks it is completely objective in nature meaning it isn't focused on any particular issue or property but looks at the overall acreage, zoning classification, where property connects to other preserve land, does it contain sensitive streams, is it near major creeks, development potential, and a number of other goals including how much is woodland or farmland. He thinks the criteria is completely appropriate, objective, and will help with determining properties that are appropriate to preserve. Mr. Shaffer asked if the Board needs a motion. Attorney Backenstoe said a motion will be needed to adopt these new regulations which are consistent with current regulations. This just adds additional criteria.

**Mr. Gable made a motion to accept the Moore Township Open Space Evaluation Sheet dated April 14, 2021**

**Mr. Shaffer seconded the motion**

**Public comment**

None

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

#### **COMMUNITY DAYS COMMITTEE**

Mr. Tirrell said everything is a go. Sponsorships are good as are volunteers, but they could always use more. Bands and games are booked including axe throwing and escape rooms.

#### **ZONING AND BUILDING OFFICER**

Mr. Harhart submitted his report for the month of July.

#### **TOWNSHIP ENGINEER**

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

Mr. Horvath provided a KCE review letter dated August 2<sup>nd</sup>. They received three bids all deemed complete. The low bid was Semmel Excavating at \$123,030, the second was Land Tech Enterprises at \$224,700, and the third was Bean, Inc with a bid of \$268,419. If the Board chooses to proceed, they recommend awarding the contract to the low bidder, Semmel Excavating, LLC, at a contract cost of \$123,030. This would be subject to their furnishing required bonds, insurance, and other requirements per the contract documents. Mr. Piorkowski asked if the low bidder is local or another reason for the disparity between bids noting Semmel is about \$100,000 less than the second lowest bidder and about 50% of the third. Mr. Horvath said he is a local contractor. KCE did business with him in the past, and he's been around for a while. Semmel was also concerned calling the KCE office to see what he may have missed. Mr. Horvath doesn't think he missed anything and feels the low bid was higher than expected. They could only attribute that to the overabundance of work and difficulty contractors are having finding workers like other industries. This is his best guess noting the high bids could have been throwing something out there to see if they'd get the bid. The Semmel Excavating bid was more competitive, but it is also reflective of the trying times they're seeing.

**Mr. Shaffer made a motion to award Semmel Excavating, LLC in the amount of \$123,030 for the Schiavone farm project**

**Mr. Gable seconded the motion**

**Public comment**

None

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

## **TOWNSHIP SOLICITOR**

### **Warehouse Ordinance**

Attorney Backenstoe recognized most of the faces as many were at the Planning Commission meetings and several Board of Supervisors (BOS) meetings. At the last BOS meeting, the Board made a motion he prepare and update the warehouse ordinance to help protect and ensure safety and comfort for residents who may be subject to the immediate impacts of a warehouse. There was three critical criteria. The first is that the ordinance provide warehouses no longer be a permitted use in the industrial district, but a conditional use. He explained, a conditional use is still a permitted use. However, additional conditions can be attached to it depending on the specific use and the specific project. Also, a conditional use would go before the BOS. Special exceptions go before the Zoning Hearing Board (ZHB). The only time the BOS has any venue or jurisdiction whatsoever in order to review a particular zoning request is a conditional use. The revised ordinance takes the warehouse, which has been in the industrial district since 1973, away as a by right use and made it a conditional use. The Board also wanted to incorporate some criteria in the engineer's review letters, where appropriate, in addition to the criteria provided by the citizens group. He prepared an ordinance within the next day or two after the meeting. The Board asked through one of the motions for it to be reviewed by the Planning Commission for further input. After writing the initial draft and advertising in the Easton Express the Planning Commission was going to be reviewing it, he worked with Mr. Horvath. Mr. Horvath had some excellent input and ideas from an engineering standpoint as to how the ordinance could be updated and improved to keep with the times. In 2019, the Moore Township Board of Supervisors took the lead in some respects in preparing a pretty comprehensive warehouse ordinance. The Lehigh Valley Planning Commission (LVPC) commended the board for its forward thinking, he thinks were the exact words. With the proliferation of warehouses throughout the Lehigh Valley, and with the issues that have come up including those raised by residents, this ordinance, he thinks, is more comprehensive and better protects and insulates properties which are contiguous to where a warehouse may be while also providing for a lot of amenities requiring warehouses to have facilities for its truckers. There are a lot of complaints throughout the valley that truckers are in their trucks all night, waiting to drop a load off and pick a load up, and they will relieve themselves in people's yards. This ordinance, among other things, requires shower rooms and bathrooms for truck drivers and snow scrapers, a big deal as trucks parked all night may come out of a parking lot with snow on them that can be dangerous. This ordinance incorporates all of the good and substantial features from the original 2019 ordinance and incorporates what they thought were the best updates. He did a complete, full, word for word reading at the PC. He could do that now but doesn't know if it's necessary. The Board has had an opportunity to review. He also incorporated some comments from the PC. If the Board so inclined, the next step would be to take a vote to direct and authorize Attorney Backenstoe to advertise the ordinance for adoption. Under the Municipalities Planning Code, there is a requirement the Board advertise this ordinance over two successive weeks, no less than seven days before the meeting at which it would be adopted, and no more than thirty days. The ordinance again has to go in its final form to the PC for another reading and review and to the LVPC for their input and comment. Once those things are done, usually achieved within a thirty-day period, they can adopt the ordinance at the next meeting, and this will officially become the law. He asked the Board if there is anything else they would like him to review. He continued, one of the features is a much more detailed berm, a much more detailed buffer yard, much stronger regulations as it relates to any property which is contiguous to a potential warehouse site, meaning any agricultural site, residential site, residential zoning district or, any existing residential property. He thinks it goes a long way to provide even more protection then provided under the existing ordinance. Mr. Piorkowski thanked Attorney Backenstoe.

**Mr. Piorkowski made a motion Attorney Backenstoe move forward with the ordinance by placing it in the paper and taking the proper steps**

**Mr. Gable seconded the motion**

**Public comment**

Mr. Gary Bickle of Beachwood Lane had a comment. Attorney Backenstoe introduced the stenographer, Mr. Rewak, hired by Mr. Muschlitz and his attorney, to let residents know why they may be asked to spell their name. Mr. Bickle continued, Attorney Backenstoe mentioned he placed an ad in the Easton paper and asked if it is placed in any other papers. Attorney Backenstoe said that was for a preliminary review by the Planning Commission. This will probably be placed both in the Express Times and the Home News. Mr. Bickel asked if the Township could put the ordinance on the website. Attorney Backenstoe said absolutely. Once the advertisement goes out, Mr. Steiner will have a copy, and he can put it on the website.

Mr. Martin Sheffield of Southmoore Drive had two questions. He asked if the LVPC had an opportunity to give Attorney Backenstoe an indication as to where they are going to stand beforehand, or if it is only when he presents it that they will have any indication. Attorney Backenstoe said that's an excellent question. The LVPC won't provide comment on anticipated action. The process in the Municipalities Planning Code is once the Board of Supervisors authorizes the advertisement, that triggers him to send it immediately to the LVPC for a thorough review. If they have additional comments, the Board could, at its next meeting, rather than adopt the ordinance, indicate they've gotten other comments from the LVPC which they think are fruitful or warranted and further revise the draft. Mr. Sheffield asked if they will have an opportunity to hear that in advance and be able to have a discussion about the items they might have brought up. Attorney Backenstoe said yes, absolutely it could be done at that meeting. The ordinance is advertised and is slated for adoption. Before it's adopted, it's open to the public to have a hearing to get your testimony and review input from the LVPC. The input from the LVPC is not mandatory. It's something they can take under advice or not. But oftentimes, if they do provide significant substantive input, a board will hold off on the vote and incorporate further comments from the LVPC. Mr. Sheffield also asked for the estimated timing on all of these issues as far as when will it take place and how long does it typically take. Attorney Backenstoe doesn't want to be presumptuous, but assuming the Board does vote in favor of this ordinance tonight, he will advertise it for adoption at the Board's next meeting next month. The PC will then have reviewed it and, hopefully, the LVPC will have reviewed it, too. There are time limits on their review. Sometimes it doesn't jibe exactly with their scheduled meetings, but they usually get their comments back in time for the actual public hearing. Mr. Sheffield thanked Attorney Backenstoe.

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

Attorney Backenstoe asked clarification the motions is for him to advertise. Mr. Piorkowski said yes.

**TOWNSHIP MANAGER**

**American Rescue Plan Funds Transfer**

Mr. Steiner said they received the first half of the American Rescue Plan Act funds. The total is \$493,724.67. He is asking the Board to transfer from the Disaster account to a separate fund for the American Rescue Plan funds, the ARP Fund. He is working to budget some projects for this year.

**Mr. Shaffer made a motion to transfer funds received of \$493,724.67 to be transferred from Disaster account to ARP Fund**

**Mr. Gable seconded the motion**

**Public comment**

None

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

**American Rescue Plan Act Consultant**

Mr. Steiner said there is a lot of things these funds can be spent on, and there's a lot they cannot spend the funds on. There are a lot of federal accounting requirements as well. PSATS negotiated rates with a CPA

firm, Zelenkofske Axelrod LLC, to help with the entire process ensuring the Township spends funds properly, calculating proper amounts of loss funds, and assisting with how to best spend the funds to maximize these funds. The fee for the entire process is \$24,500 taken from the American Rescue Plan Act funds. If the Board is interested in moving forward with this consultant, that would be the price for the entire process. Mr. Piorkowski asked how many townships have signed up for the service. Mr. Steiner thinks it is 100 townships signed up thus far and another 25 when Mr. Steiner spoke to them. They are currently doing preliminary webinars and submitted comments for the U.S. Treasury regulations. They will know the result of those within the next couple months noting PSATS is also submitting comments. There might be more uses with the funds after the regulations, but they will assist the Township in making sure funds are spent properly. Unfortunately, the federal and state government can regulate these funds meaning there is a lot that could go into their use. Mr. Piorkowski said they would be one of about 126 municipalities entering into an agreement so if one has a problem, they'll all have a problem. He thinks it is a good investment.

**Mr. Gable made a motion to appoint Zelenkofske Axelrod LLC at a cost of \$24,500 to help the Township with American Rescue Plan funds**

**Mr. Shaffer seconded the motion**

**Public comment**

None

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

Mr. Steiner asked for the Recreation Commission, Historical Commission, and LEPB to start putting together projects for next year and the funding source for September 3. He will send a memo outlining what he is looking for in the upcoming weeks.

## **RESOLUTIONS & ORDINANCES**

### **Ordinance 2021-03 Bamboo**

Attorney Backenstoe said the bamboo has been advertised and ready for adoption of the Board so inclines.

**Mr. Shaffer made a motion to adopt Ordinance 2021-03 Bamboo**

**Mr. Gable seconded the motion**

**Public comment**

Mr. Bickle said they mentioned earlier the bamboo has been causing problems at the recycling center. He asked if that is incorporated or if it needs to be addressed. Attorney Backenstoe asked where the facility is located. Mr. Gable said 6701 Weaversville Road in East Allen Township. Attorney Backenstoe said Moore Township can't adopt an ordinance regulating anything in East Allen Township. Mr. Bickle said Moore Township has a site that gets taken to FRCA which can be contaminated. Mr. Gable said the fact that the recycling center does not accept bamboo means the Township also does not accept bamboo because they have no place to get rid of it. If need be, Mr. Hoffman can incorporate into the sign. Mr. Matt Flower of W. Scenic thinks if the Township is going to mandate people cannot have bamboo or there's a duty to get rid of bamboo, they need to find some reasonable disposal method for people to adhere to this ordinance. It's prohibitive to not accept bamboo at a disposal site but ban bamboo. Attorney Backenstoe said he read through the ordinance at last meeting and can do so again to clarify. The Township doesn't prohibit bamboo. Bamboo is one of the most invasive, prolific vegetative species. If it's planted, it grows. A person may enjoy it on their property, but the neighbor may not. If it is planted next to the neighbor, it is going to follow the water courses to the neighbor. It can crack roots, destroy trees, destroy pipes, and reign havoc so while one person is thrilled with their bamboo backyard, the neighbor may not be thrilled at all. In the city of Bethlehem and city of Easton, they have bamboo

regulations which were very strict and prohibits bamboo under any circumstance. The ordinance Attorney Backenstoe was asked to prepare resulted from complaints and concerns in which they didn't want to prohibit bamboo but provide some kind of protection to regulate it. This is a benign bamboo ordinance but nonetheless provides a level of protection which is helpful. The question is if it's prohibited or not allowed, what should a person do with it which would be the property owner's obligation to dispose of it properly. The ordinance defines bamboo and requires that growing or maintaining bamboo in such a manner that the bamboo spreads, invades, or grows, on a neighbor's property is prohibited. If a person wants to have bamboo and keep it on their property, there is no problem. However, they are prohibited from allowing it to spread to someone else's property. Any property owner or resident who has planted or maintained bamboo on his property shall be required to take measures that reasonably expected to prevent this bamboo from invading or growing onto an adjoining or neighboring properties. If a person has it, they don't have to take it down but need to take measures to prohibit it spreading. Such measures include sheeting comprised of metal or other material impenetrable or impermeable by bamboo at sufficient depths within the property line or lines where the bamboo is growing to prevent the growth or encroachment onto an adjoining or neighboring property owner. There are measures that can be taken to plant metal sheets or sheeting or concrete to prevent the proliferation of bamboo from your property onto the neighbor's property. That's all this ordinance says. Mr. Flower thanked him for the clarification and knows bamboo is not prohibited. He suggested that should maintenance of bamboo be required, if they try to compost it, it could cause a problem. He wants to know what would be a reasonable disposal method that a person could use to satisfy their due diligence as far as this ordinance goes. Attorney Backenstoe said it could be burned or have a professional remove and take it to a site where it is permitted. There are landscaping companies that specialize in removing bamboo and disposing of it.

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

## **OLD BUSINESS**

### **Schiavone Park Pond Improvements**

No updates, still waiting to hear from Met-Ed.

### **Herd Property**

Mr. Piorkowski said the Herd property was put out to bid. It is 27 acres at Whitetail Deer Drive, tax parcel J5 16 1. The Township purchased for \$377,654.26 including the appraisal of \$1,800 and purchase price of \$375,854.26. The Township received an easement of \$157,587.53. The difference between the purchase and easement is \$220,066.73. They received two bids on the property. The first bid is \$138,027 submitted by Kevin, Caroline, and Hunter Lindaman. The second bid is \$220,000 submitted by John Baran.

**Mr. Shaffer made a motion to accept the bid of \$220,000 from John Baran**

**Mr. Gable seconded the motion**

### **Public comment**

None

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

## **NEW BUSINESS**

### **CORRESPONDENCE/MEMOS**

Mr. Piorkowski said they received a letter about the speed limit on Grouse Road which is a state road. The Township has no control of the speed limit on the road. The person wanted the speed limit reduced to 25 mph. The second letter had to deal with fireworks restrictions. They spoke about this about a year

ago. The Board wanted to see what happened when the law was fully in effect and to see what results they had or complaints received. They will have to make a decision if they want to pass a resolution or ordinance limiting fireworks. Attorney Backenstoe said they would have to impose regulations with regard to consumer fireworks through an ordinance. Mr. Piorkowski will take the letter into consideration and have more discussion at the next meeting. Mr. Jeffrey Ayers of Pheasant Drive said according to an article in the Morning Call, this might be addressed in the fall as some of the legislators have been catching flack for this. They're going to revise the legislation to allow local municipalities more authority to restrict fireworks. He thinks they should write letters to the state representatives and state senator to make sure class two townships are included. The article mentioned towns and boroughs. He doesn't want to see Moore left out being a class two township not having the same rights as other municipalities. They're going to address this in the fall as they realized they opened Pandora's box and are getting a lot of flack for it with people shooting off fireworks in places they shouldn't be. He'd like to see the Board address this and ask to be included. Attorney Backenstoe said there are two independent articles in the Morning Call with a scathing review of this law noting they did this to generate tax money. It opened up the use of fireworks. Everybody likes them at the appropriate time including the 4<sup>th</sup> of July, New Year, maybe Christmas and Memorial Day. With the lucid regulations and increased ability for the consumer to buy high power fireworks, townships, boroughs, and cities are limited in their ability to regulate it. The legislator who first introduced the law said get over it and get used to it as it will never be changed blaming local municipal officials for not doing what they can to regulate. Attorney Backenstoe continued, that is unfair because in a Township the size of Moore or Bushkill, if people are really setting off fireworks, somebody has to call the police. By the time the police arrive, the fireworks are either done, or they know police are coming and stop, so it's almost impossible for the police department to regulate it as hard as they try to do so. There are minimal regulations that can be imposed that might help, but it would be nice if the legislator would curtail the use and provide local municipalities with the ability to really regulate fireworks including limiting hours of operation and certain hours or holidays. There are people who are vets with post-traumatic stress disorder who do not need to hear this on a random weekday night. Under the law, they can do it. Mr. Piorkowski asked Attorney Backenstoe to write a letter to public officials stating the Board's position to be able to regulate fireworks. Attorney Backenstoe can do that.

## **OPEN TO THE FLOOR**

Mr. Matt Flower said two residents let him know they received a letter from the Township which was a notice to landowners within 200 feet of a proposed subdivision or land development. It's 51.27 acres, the land to be developed by Jack Muschlitz of Waters Edge at Wind Gap. He asked if they can be told more about the letters, what triggers them, and when is the official date of the plan submission. Mr. Harhart said the letter is a requirement of the Moore Township Subdivision and Land Development Ordinance. Whenever any developer submits a land development plan or major subdivision, they are required to send a notice to all the neighbors within 200 ft notifying them they have submitted a plan and will be at the next Planning Commission meeting. It is similar to the Zoning Hearing Board except the Township sends out the ZHB variance request of the neighbors within 500 feet. This letter is normal for any major subdivision or land development. Mr. Flower asked for the date of the plan submission. Mr. Harhart said it was submitted this past Monday, August 2 late in the day, which was the date to get on this month's Planning Commission agenda.

Mr. Matt Bowing of Jones Road asked if the plan is grandfathered before the new ordinances are passed or is it going to be subject to the new ordinance. Attorney Backenstoe said that is an issue they are going to continue to look at. There is a pending ordinance doctrine, although that more has to do with zoning uses and permits than land development subdivisions. It is something the Board will continue to look at during this process. Mr. Bowing said the Township saw the new plans submitted and asked if it curtails

to the new ordinance. Mr. Harhart said the plans were submitted to the Township Engineer to see if the plans were complete. Mr. Horvath received the plans yesterday, and they're still checking and cataloging the information. He has not done the review yet and cannot say to what extent it does or does not comply with current or pending regulations. Someone asked how many buildings. Mr. Horvath said there are two buildings proposed.

**ADJOURNMENT**

**Mr. Shaffer made a motion adjourn the meeting at 6:54 PM**

**Mr. Gable 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.**