

The Regular Monthly Meeting for the Moore Township Board of Supervisors (BOS) was called to order on Tuesday, February 7, 2023 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).

Attorney Backenstoe introduced Nancy Aaroe who is running for judge of the Northampton County Court of Common Pleas. Ms. Aaroe provided her background to the Board and public in attendance.

WAIVERS & DEFERALS

SUB-DIVISIONS AND LAND DEVELOPMENT

Mr. Dick Gable reported the Planning Commission (PC) appointed him as chairman, Mr. John Wetzel as vice chair, and Mr. Jason Harhart as secretary at the reorganization meeting.

#23-02 184 Grouse Drive Sewage Planning Module Component 2

Mr. Gable reported the PC approved the 184 Grouse Drive Sewage Planning Module Component 2 per Chris Noll's review letter dated November 30, 2022. Mr. Shaffer asked Mr. Horvath if there is any additional information pertaining to the plan. Mr. Horvath reported Mr. Noll's recommendation is approval of the plan.

Mr. Shaffer made a motion to approve sewage planning module component 2 for 184 Grouse Drive per Chris Noll's review letter dated November 30, 2022

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Tirrell made a motion to add #22-16 Wayne Cacciola Sewage Planning Module Component 1 to the agenda

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Resolution 2023-9 Plan Revision for New Development 184 Grouse Drive

Mr. Shaffer made a motion to approve Resolution 2023-9 Plan Revision for New Development at 184 Grouse Drive

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

#22-16 Wayne Cacciola Sewage Planning Module Component 1

The PC approved #22-16 Wayne Cacciola Sewage Planning Module Component 1. Since the meeting, Keystone received information from the applicant and surveyor they are going to test and seek approval for the second lot on the subdivision as a building lot. Mr. Horvath does not see any urgency approving the plan at this time as it could be revised and resubmitted with both lots under consideration. They initially proposed to create a single non-building lot with a non-building exemption for sewage facilities planning. They since changed course and would like to approve it for a building lot. It could happen consecutively; it doesn't need to happen concurrently. Ms. Lois Kerbacher reported it only needed approval by the PC as it is only a component 1. Mr. Shaffer asked if nothing will hold it back if it's tabled until next month. Mr. Horvath said the Board doesn't need to act on it because it's an exemption.

Mr. Gable reported they heard from the Water's Edge at Wind Gap per a Zoning Hearing Board (ZHB) review request. The motion was made to recommend to the ZHB 4' buffer trees on Moorestown Road, planting extra trees for woodlands replacement, realignment of Jones Road and improvements to the curve of Jones Road, additional berm on the western property line, and parking spaces with underground retention basin. A letter was sent to the ZHB.

The PC also passed a motion to move the Agritainment/Agritourism zoning ordinance to the Board of Supervisors for adoption.

The PC passed a motion concerning the Stormwater Act 167 Ordinance to make two clean documents incorporating the special language and to keep the current language regarding Page 9 G-3; keep the riparian buffer at the current ordinance, and keep the natural vegetation and eliminating invasive vegetation.

REGULAR BUSINESS

MINUTES

Mr. Shaffer made a motion to approve one set of minutes from January 3, 2023

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 \$152,543.75. The Liquid Fuels bills are \$37,651.02.

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 January 2023 report.

FIRE & AMBULANCE

Mr. Harhart read the 2022 year-end and January 2023 reports.

PUBLIC WORKS DEPARTMENT

Potential Roads to be Vacated

Mr. Craig Hoffman discussed the possibility of vacating two additional Township roads noting they vacated Trapper Road in the prior year. The first is Trach Road from S Summit to Bauer Rd. The main reason is he thinks it's a farm lane with farms on both sides of the road. He doesn't think anybody lives on the road. There are no houses or residents on the road. They have a difficult time maintaining it in the winter due to drifting with fields on both sides of the road. The second is Bigley Road between SR 946/Mountain View Dr and Glase Road. He thinks there is one house on the road. The road leads to the house and past it there are fields on both sides of the road. He brought Mr. Horvath out to see the road, and the first question was whether it was a driveway. He asked Chief West and the fire company if the road would be used in an emergency situation. He doesn't see them using the road for an emergency call. Reviewing the stone roads with Mr. Horvath and Mr. Sean Dooley of KCE, they discussed getting less mileage of stone roads to maintain noting they have about 20 miles of stone roads. Vacating some of these roads would help them maintain other sections of roadway better. He wanted the Board's feedback.

Mr. Jeffrey Henderson, landowner with his wife Diane of the north and south side of Trach Rd, asked confirmation it was difficult to maintain due to snow, and Mr. Hoffman said yes. Mr. Henderson asked what the 2022 budget was concerning dirt and gravel roads. Mr. Hoffman and Mr. Steiner did not have the information. Mr. Henderson would like to see that to know how much percentage was expended. Mr. Hoffman said he could pull the records of how much time was spent on Trach Rd when it would flood due to the water from the field running onto the road and down to S Summit. Mr. Henderson asked if the undersized drainage pipe under S. Summit had anything to do with it. From what he understands, it's a reduced diameter. Mr. Piorkowski said when Mr. Dave Tashner was Public Works Director, they replaced two or three pipes on S. Summit that was supposed to take care of the runoff water. At the same time, they did a review with, he thinks, Ms. Maria Bentzoni who was telling them about the gravel road grants available. He believes they also spoke to the farmers on the road at the time. They weren't interested in doing anything on the road because they would have had to cut into the fields. He asked Mr. Rudolph Klein of Trach and Bauer Rd if he recalls that. Mr. Klein doesn't have any recollection of being asked. Mr. Mike Koehler said he was a UPS driver for twenty years, and they never did anything. Mr. Piorkowski never said they did. He's just pointing out they discussed it. Mr. Klein said he mentioned vacating it to Mr. Tashner at one point because people drive like hell, and they were always concerned with a head on collision at the site of the barn because of the bad sight distance. He was given the excuse they would lose too much Liquid Fuels money. Mr. Henderson asked what engineering studies were conducted to determine the corrective measures for fixing the erosion and the associated costs. He would like to compare that to the budget costs. Mr. Piorkowski asked Mr. Horvath to provide information. Mr. Henderson said he was in deep talk with Ms. Bentzoni of Farmland Preservation. He said there were

serious engineering studies conducted by Penn State Extension as well as the NRCS, the National Resource for Conservation Services. They came up with a proposal for fixing the erosion, and it fell on deaf ears. He wants to know why nothing was done. Mr. Tirrell asked when the study was done. Mr. Henderson said 2008. Ms. Bentzoni has the historical background to support that. He has a drawing that shows it. The erosion is deplorable noting he sent pictures. Mr. Piorkowski said he's been out there. Mr. Henderson asked if he saw the pictures. Mr. Piorkowski said he didn't need the pictures, he went out there. Mr. Henderson said the neglect of the road is unbelievable. If the Township is going to pursue privatization, he asked if it needs to be taken to the County Commissioners for approval. Attorney Backenstoe said no. The process to vacate a road is clear in the Second Class Township Code. The Board of Supervisors could ordain a new road, require a survey, open or widen a road, straighten a road, or vacate a road. If they want to do that, they do so by ordinance. If they receive a petition from neighboring property owners, they need to act on it within 60 days. If it's something they decide to do on their own, they have to do so by adopting an ordinance. Before adopting an ordinance, they have to hold a public hearing giving any contiguous property owner to the road at least ten days written notice. Mr. Henderson said they are actively pursuing an option to put a house on the road. Attorney Backenstoe said it's Section 2304 and 2305 of the Second Class Township Code. He repeated, the Board of Supervisors have a right to vacate a road if it deems it in the best interest of the Township. Before they can vacate a public road, they must hold a public hearing. Before they can hold a public hearing, they need to advertise an ordinance, a hearing, and give contiguous property owners written notice of the hearing so they know property owners can show up to voice objections or support. Mr. Henderson asked if they wanted to pursue corrections of the erosion prior to privatizing it, they would do so at that time. Attorney Backenstoe said if they wanted to, they could. He said Mr. and Mrs. Henderson need to be guided by their own attorney and doesn't want to give them legal advice as a private citizen. He asked why they would spend money to fix a public road unless it was privatized. Mr. Henderson explained they are looking at it as if the Township is giving them the road to take care of in its present condition which is totally eroded. This is analogous to taking a brand-new car, using it for twenty or thirty years, and trying to give it back to somebody in its used condition without fixing it. Attorney Backenstoe wouldn't go with that analogy. It's a public road in a rundown state. The Supervisors have to consider for the Township good whether or not continued expenditures are appropriate. To answer his question, they need to have a hearing and property owners must be given notice. If they decide to proceed with the vacation and an ordinance is adopted, residents would have a right to file exceptions in thirty days. They could file a petition in court offering further testimony with the court, and the court will decide whether or not the road should be vacated. If the court decides the road should be vacated but still feel they have incurred some damage, they also have a third step to file an appeal to the court and petition for a Board of You. A Board of You is three individuals with experience in the area appointed by the court to look at and determine if there are any damages. If the Board vacated the road and incurred costs because of the private person's appeal, it could seek damages from them. Likewise, if the private individual feels they lost proprietary interest in the road, they could also seek damages from the Township or reach an agreement. If they don't reach an agreement, there is a venue for them to proceed and process grievances to ask for damages if they occur. Attorney Backenstoe indicated they had a good conversation once or twice regarding the issue. The process is laid out clearly in the Second Class Township Code and is often used by many townships at the request of the property owner or because the Township thinks it's important. Mr. Henderson thinks they need to come up with an agreement to see if some corrective measures can be taken up front before the road would be vacated. Attorney Backenstoe said that could happen. He thinks this is the first time the Board has heard of this and won't make a decision one way or the other. Mr. Shaffer is trying to grasp the whole story noting he lived in that area and has driven on it. It's been in despair for several years noting he hadn't even graduated from high school in 2008 and wasn't with the Township at the time. There are two residents on the road. He asked Mr. Henderson if he'd like the Township to fix the road. Mr. Henderson would like to see it brought up to the condition it

was before the erosion occurred. Right now, the erosion is permeating into the fields. Mr. Klein said the whole underlying issue with this proposal is they can't control the erosion anymore. It is getting more of a hazard the Township doesn't want to deal with, a hazard for public safety. Mr. Henderson said the Farmland Preservation people have evidence they sought help from Penn State Extension and NRCS and found a way to correct the erosion, but it was never acted upon. Mr. Shaffer asked if the Township fixed the road and vacated it, would that be a problem to Mr. Henderson. Mr. Klein said it would cost a fortune. Ms. Henderson understands from preservation that it's two different taxable parcels, and the road is an easement through the middle. They can't just vacate it. It needs to be resurveyed and re-deeded. It will never be farmland again. Attorney Backenstoe clarified that by operation of law, if a road is vacated by a borough or township, then from the center of the road east or west, north or south, it becomes owned by the contiguous property owner by operation of law. The next question would be how to prove it in court. They can do a quick claim deed. If the road were vacated, not that they should or shouldn't, if they own property to the north, then from the center of the vacated road north would be theirs. Hypothetically if they owned it south, then from the center of the road south would be that property owner's. If you own both properties, the property owners would own the whole thing. Mr. Henderson said it still doesn't answer who pays for the resurveying for the deeds. Attorney Backenstoe doesn't know that it needs to be resurveyed. He's been through this with private clients who have had roads vacated either by the township, or they fought with the township to vacate the road. If the township won't give a quick claim deed, you have to come up with some way to convey title to yourself. What he did successfully for his private clients in Northampton and Lehigh counties is a deed from the property owner to the owner's self citing the 1961 road law that says by operation of law it becomes the owner's. They have to take the deed and consolidate it with the current deed. That would not be on the township. This Township in the past has done quick claim deeds. It's not a big deal and very nice for the residents and Township. Unfortunately in his private experience, some townships weren't as nice so they had to go the extra mile to do a deed from self to self. Mr. Shaffer asked if the Township fixed and vacated the road, would it be acceptable to Mr. Henderson. Mr. Henderson thinks if they fixed it to NRCS standards, yes. Mr. Shaffer said if it would happen again, Mr. Henderson would take full responsibility as a vacated road to fix as needed. Mr. Henderson said if it's fixed to the recommended drawings from Penn State Extension and NRCS, then it should not be a problem. Mr. Tirrell said it wouldn't be a road after it was vacated. The property would be split down the middle and property owner on either side would be responsible for it even if it's maintained as a driveway. Mr. Henderson asked Attorney Backenstoe if there is a process for privatizing the road. Attorney Backenstoe said no. Borough code is different and may refer to that language. That is not the case in the Second Class Township Code. If the Township passes an ordinance vacating the road, the property owner can file an exception to the court to show the court why the property owner objects and Township shouldn't do it. But if the court upheld the Board of Supervisors, or an appeal wasn't filed, it becomes private by operation of the road law. It automatically becomes owned by the property owners on either side of the road. There is no special formula or additional process. Mr. Piorkowski asked Mr. Gable if he was at the Township in 2008. Mr. Gable was with the Township in 2006 and 2007. He then came back in 2010. The road was a problem when he was with the Township in 2006 and 2007. Mr. Maynard Campbell didn't want to do anything with it. When Mr. Tashner took over, they looked at the road. Mr. Reeser wasn't in favor of the Township ripping up some of his field to do what was needed to be done to fix the road. Ms. Henderson asked why they would need to rip up the field. Mr. Gable explained according to Ms. Bentzoni, who was involved in the conversations then also, didn't want them going into the fields. To fix, widen the road, and install the gutters properly it would have to go into the field. Mr. Henderson said the drawing he saw had them moving the water from the north side to the south side and install a swale on the south side to help drain the water out. Mr. Gable asked confirmation if the swale is on the north side of the road. Mr. Henderson said it's erosion. Mr. Gable said the water ran down to the pipes at the bottom of the road to cross at Summit. Mr. Henderson said the water is running on the north side into the erosion and down into S.

Summit. The engineers wanted to route it to the south side and install a swale. Mr. Gable said he wasn't here when that was done. Mr. Piorkowski asked if he was here when they put the pipes under S. Summit, and Mr. Gable confirmed he was. Mr. Piorkowski asked if Ms. Bentzoni was involved, but Mr. Gable said she was not involved with the pipes on Summit. He knows Mr. Tashner had her look at the road numerous times because they were looking at Dirt and Gravel Road funding. Mr. Piorkowski asked if he was aware of any study done, and Mr. Gable said that was between the two times he was here. Mr. Piorkowski doesn't remember either. Mr. Klein said depending on how they sloped the road or reconfigured it, it would cause an erosion problem in the fields. With both his farms and Reesers' being preserved, there are guidelines they have to maintain against erosion. He thinks that is why Ms. Bentzoni was involved. Mr. Henderson said there are ways to prevent erosion in the field. If they put a perforated pipe in and have access to the pipe. There has been willful neglect over the years, and it's starting to appear in the fields. The erosion is 36 inches deep. Mr. Klein said it's a major hazard. Mr. Henderson said if someone drives into the ditch, they're liable for it. It's a safety issue. Mr. Klein said safety is the driving factor. Ms. Kerbacher said back then, there wasn't any money. There wasn't funding in Liquid Fuels or general funds. Mr. Henderson said Farmland helped them solicit a grant through the county for funding the conservation district dirt and gravel road program. They put money out there, and Moore Township wouldn't take advantage of it because they had to put money out. He asked confirmation from Mr. Steiner that is what he told Mr. Henderson. Mr. Steiner said he told Mr. Henderson that may have been a possibility back then noting he wasn't around then either. He knows for a lot of grants, the Township has to pay up front. If the Township had to pay \$100,000 up front and money was tight, they are then waiting for the county to pay them back. The last time they used the dirt and gravel road program on Kern Road, they gave a certain portion up front. He was sweating bullets waiting to get the project paid for and the reimbursement ultimately approved. It was almost fully funded, but they won't cover certain costs such as the engineering. There are limitations with the program while noting it's a great program. Mr. Henderson said the point he's making is it's not really true. There was money made available. The Township just didn't act on it. Mr. Tirrell said none of them were here to be able to answer the question whether there was or wasn't. Ms. Kerbacher said there was no money. They were in the hole over \$400,000 by August. There was no extra money to put out in advance. Mr. Henderson said the county made the money available to Moore Township. The Township just didn't go out and entertain it. Mr. Piorkowski thinks what everyone is saying is they'll give the grant after the project is completed. What Ms. Kerbacher is saying, is there wasn't money to start the project back then. Ms. Kerbacher said they were lucky if there was money for payroll and benefits for employees. There was no extra money. Mr. Piorkowski is surmising Moore Township didn't take the grant because they had no way to fund it, but he wasn't here either. Mr. Henderson said it goes back to what Mr. Steiner said in that they didn't have the money up front. Mr. Tirrell asked Mr. Klein, Mr. Henderson, and Ms. Henderson, if the road is vacated, is it a hardship to get to the fields. Ms. Henderson said it could be. Mr. Tirrell asked if there's access from Bauer. Mr. Klein said the big issue in this deal is the Reesers will get the worse end of this. Mr. Klein is on the upper side and doesn't experience the erosion like they do. It picks up a lot of momentum, and the force is so much greater until it gets to their property. The ditch is there already and will only expand. It's a catch-22 for him because he would like to see it closed for one reason. It's unsafe travel, and the way people travel he's worried something will happen at his barn because of the limited sight distance. He would like to see it closed, but he wouldn't like to see it closed because of the field access. It's going to ditch. He has the equipment to move it and keep it in good condition, but he has to think about his neighbor. They're not in the same boat. He's not going to do more to it then he has to because there's a lot of costs involved. Mr. Henderson said they are limited as to what equipment they have to address and keep fixing it. Mr. Klein would like to know why this is suddenly a controversy or issue because the road has been bad for so long. Mr. Steiner said he explained to Mr. Henderson, they have been putting together a multi-year road program. Looking at the limited amount of funds they have, they are trying to determine how they can be stretched as far as they can. From what he understands, part

of it is looking at roadways that may serve more of a private than public purpose. If they serve more of a private purpose, the Township may consider vacating the roads. He wasn't here long enough to know what had happened and has to ask people around him. He didn't know what the solutions were, but it sounds like they weren't amenable to Mr. Reeser. He heard the ideal situation was to have the water sheet into the field, that was not a solution for the farmer, so they didn't do that. Mr. Klein said it's an issue with conservation and the farms being preserved. Mr. Klein was in an uproar when they decided to elevate the road and thought the water would be drained into the field. Mr. Steiner explained he needed to attend the dirt and gravel road seminar to apply for the grant. It contained information above his knowledge, but for a road like that a lot of ideas they recommend is bringing the road up to level and letting the water sheet across. It would have created a greater hardship for the farmer as opposed to the hardship for the Township which is to maintain the roadway. Mr. Klein said they did a lot of work to try and correct the road over the years noting Mr. Dave Lack instigated a lot of it. They said water coming off his barn was compounding or initiating the problem, so they put a pipe to run the water from the downpipe into his field. It didn't solve anything. Mr. Henderson said if they addressed the erosion problem and the water is channeled properly, they would need a privacy gate at the west end to keep people out. There would probably need to be a barrier between his and Mr. Klein's property to keep traffic out. Mr. Klein said absolutely. Until people become aware of it, it's going to be a real issue because he will need to stop them by the barn with a ground barrier. Until they get to that point, they could be flying off Trach Road over the barrier. Mr. Henderson said they can't just take the street and stop signs down and say it's private. There's a lot more to it than that. This would all need to be included under their exceptions they file once the ordinance is adopted and be subjected to the Common Pleas court. Mr. Piorkowski thinks they need to have the engineer do an evaluation and have him get in touch with Ms. Bentzoni. Mr. Horvath said of the first things he'd like to do is see the plans. It's not something unheard of at least the way it was described. He was at the site about five years ago with Mr. Tashner. The discussions were the same. The water wants to get from the north to south side of the road. The road is preventing that from happening and channelizing it. The physical road is creating the problem, so what can they do to address it. Mr. Henderson said he can provide the sketch which Ms. Bentzoni gave to him. He isn't sure how much help it will be, but it shows they want to take the water from the north side, take the water under Trach Rd, and channel it down the south side which is the opposite of what's happening now. Mr. Horvath asked that being they own both sides of the road, is there any consideration for eliminating the road and farming across it. Mr. Henderson said his son is a professor at the University of Connecticut, a turf and soil science manager. He asked what if they dug the road out and installed top soil. His son said the soil will never be the same. It takes years to develop proper soil. Mr. Klein said that's right. The other problem is there's so much heavy shale, several hundred ton, dumped there to elevate it that he couldn't imagine the pile. They can't make it tillable, productive ground. Mr. Henderson said they need to fix it from an engineering standpoint properly before they will accept it. Mr. Klein said they need to run the water underneath and pipe it down the other side. It's the only way the problem will be solved. He said then you're talking about money issues. Mr. Tirrell said this is for a road that doesn't serve any purpose. There's no reason for it to be there for public use. Mr. Klein said the other issue is there will never be any developments there because it's preserved. Mr. Tirrell said he wouldn't want to see a driveway going into that at all. Mr. Piorkowski said Mr. Horvath will get in touch with Ms. Bentzoni and look at the sketch. Mr. Henderson said he would give the sketch to Attorney Backenstoe and would appreciate if he reach out to Ms. Bentzoni. Mr. Piorkowski recommended Mr. Horvath have a conversation on the issue. Mr. Horvath asked what it is they are looking from him. Mr. Piorkowski said resolution, what can be done. Suggestions first. Mr. Henderson would like them to pursue the sketch that originated with Farmland Preservation. He will take it one step further, put a pipe there instead of a swale to drain the water into it. They could find the diameter. Mr. Steiner said in looking at all this, understanding there may be dirt and gravel road funding available to do some of this work, his recommendation to the Board would be to look at this from the big picture. Not only would

they potentially get funding, or not, they would have to front funding for this project. They would also need to maintain it long term. It's not just the cost of getting the road up to the standard for a couple residents surrounded by preserved land. They then need to maintain this long term. They're talking about millions of dollars worth of work throughout the Township on paved roads, with some mistaken for gravel roads due to their condition. This needs to be taken in the context of not just that area or road. Mr. Klein understands they need to look at it from his side and the Township's side. It's a headache for both. Mr. Steiner is just putting it out there they need to look at the big picture which is why it was brought up to begin with. He was asked how much money was spent on stone there. It's not necessarily the amount of money spent on stone there. It's the amount of time last couple years spent, rather than putting down more material, grading the road. Mr. Jesse Longley spent hours, days on the road, and it ends up in the same condition that it is following the next downpour. That number is hard to quantify because it's not just material cost but time spent. Mr. Henderson would like to see the budget on what they spent over the years addressing it, trying to fix it. Mr. Steiner said it would be difficult to find the specific cost on just that road over the years because they'd have to go through the guys' individual reports to see if they were detailed enough for the hours spent as well as trying to see the money spent on stone going directly to that. He doesn't know if he'll be able to come up with that. Mr. Klein explained based on his conversations with people throughout the Township, he's surprised there aren't people here who were totally against the idea of vacating it. They think it's a critical link to the Rec Center and that area. He's a little curious to hear the exact criteria noting he thought it had to be advertised legally in the paper. Attorney Backenstoe confirmed it would for the ordinance noting any ordinance needs to be advertised. They would also have to advertise the hearing. Under the particular road sections of the law under the Second Class Township Code, they have to do it. They also need to notify the contiguous properties in writing. Mr. Steiner said they will break into a hearing with a stenographer taking minutes. It's more of a formal hearing rather than the less formal conversation currently being had. They did this with Trapper Rd last year or two years ago. Mr. Klein said that road wasn't as much a critical link with Mr. Steiner noting half the road didn't exist.

Ms. Pat Harrison of Lilly Hill Rd, another gravel road, had a concern regarding the idea of vacation. She and her tenant are the only house on their road. Their road, particularly as the bridge passed Hoch is down, has a ton of people driving up and down between Glase and W. Scenic. What would be the criteria for vacating her dirt and gravel road because it needs maintenance with all the traffic? Mr. Hoffman said the amount of traffic that uses the road is the reason for why he wouldn't recommend vacating the road. Ms. Harrison said not today. Mr. Hoffman wouldn't see that in the future. Mr. Steiner said the Board can offer up any road to vacate, but the reason won't be just because it's gravel. When the county was working on the stone bridge, Lilly Hill was a muddy mess. Mr. Hoffman said Hoch Rd is another that has been closed for two years with the bridge out. Ms. Harrison asked confirmation if they did vacate the road and it became private, nobody would be able to go up and down the road except people going to their house. Attorney Backenstoe said yes, it becomes private property. If somebody had a private access way, you don't necessarily vacate the person's private access. For example, if there was land behind them that was landlocked, they can't landlock somebody. They would still have access.

Mr. Bill Evans raised their hand noting they have the issue on Liberty Street. He said the Township let Manny Makoul close it off, and he's now landlocked. He said it's not legal. Attorney Backenstoe said he spoke to many nice residents on that issue and thought they would hire a lawyer and file a private action against him. Mr. Evans said he does have a lawyer. Ms. Bobbi Barral said it's taken a while to get a survey to prove he was claiming way past and doesn't own the whole road. If the state law says adjoining property owners have access, how can this be? Attorney Backenstoe said that is a different situation. He doesn't think it was a Township road, but he doesn't recall all the facts noting he received a number of different phone calls. Somebody sent him a map, and he tried to analyze it. There wasn't anything the

Township could do to intervene. However, he clearly thought there was a private right action against that person and still does believe. He spoke to two or three women who were so nice, and he gave them the names of two or three different lawyers. Mr. Evans doesn't understand how he got to put the gate up. Ms. Barral said he shouldn't have been able to until it was solved in court. Attorney Backenstoe thinks it was his property. Ms. Barral said he claims it is his property. Attorney Backenstoe explained this is where there's a dispute between two property owners. When you get the information, you can prove in court it is not his and can take it away from him. Ms. Barral asked why for the last two years they haven't been able to use the road to access their house if he didn't have proof that he owned it. Attorney Backenstoe does not know. Ms. Barral said they proved beyond a reasonable doubt they have a right now, but he also refused to get a survey done. He had a plot plan. Attorney Backenstoe said unfortunately, there are often boundary disputes between two neighbors and the Township cannot spend public funds on private disputes. Ms. Barral said the police have upheld his rights saying it's his property and have threatened action against them if they stepped foot on his property when they don't know where his property line is. Attorney Backenstoe said he cannot answer to that and assures them the police are trying to do the right thing. Ms. Barral said they were ignored twice. It escalated in the last month. The first phone call, they didn't respond. The second phone call, they were called on the phone and acted like they were being a pain. He was literally coming down onto the yard screaming profanities at her. She was standing five feet from her front door which was nowhere near where his property is. Attorney Backenstoe said that's not right. Mr. Piorkowski asked if it's in court, and the two residents said it is. Mr. Evans still can't understand how he could close the road without proof that he owned it. He said Chief West knocked on his door and told him he needed to move the vehicles. How can that happen if he doesn't have solid proof like a survey. Chief West said he had a survey. The two residents said he didn't have a survey, it was a plot plan. Mr. Piorkowski said they don't want to debate that here. Mr. Evans asked how the Township could let him put up a gate. Mr. Piorkowski said the Township didn't let him put up a gate. Ms. Barral said he just did it anyway. Mr. Piorkowski said the law must have allowed him to do it. Attorney Backenstoe said if someone is exercising dominion and control over property, and they put a gate up, it may be wrong. The Township can't stop them or prove it's not theirs. The next property owner who has access to it can get an attorney and engineer. He knows nobody wants to spend money on those things, but that is how to beat the person exercising dominion and control over property. Those cases happen every day in Northampton and Lehigh County. If someone puts a huge log up in front of the driveway that somebody used to get to their home, and the people hire a lawyer and get an injunction to move the log. Then they fight over it. Ultimately, the property owner who forced to remove the log wins and they show it's their property, and they can put the log up to stop the other person from entering. Ms. Barral said their attorney sent a letter stating the state road law that properties that are adjoining owners on a road that's never been opened by the Township each own half. He asked him to remove or open the gate, and he didn't do it. He hasn't retained an attorney. Attorney Backenstoe said there are people that are stubborn and violate the law. He wished them the best of luck and hopes it works out. If they're right, they'll prevail. Ms. Barral's biggest concern was the lack. If they called, they came running right up. It didn't matter what time at night. Now they're having issues with them parking a dilapidated, old camper. It stinks and has sewage dripping out. She spoke to Mr. Harhart who asked if the church owned it. The church doesn't own it yet. She contacted the owner who is three hours in New York City who doesn't really want to own it because it's a liability. She told her neighbor to contact the Township. Attorney Backenstoe said if it's on her property, she could evict them. Ms. Barral said she was three hours away and didn't want to deal with it, so they contacted the church. She said if they want the property, they can transfer it over. Attorney Backenstoe asked if they acquired title. Ms. Barral doesn't know yet. Mr. Piorkowski said they need to get back to the meeting at hand. He asked Mr. Henderson to meet with Mr. Horvath after the meeting who will come up with recommendations or solutions to come up with as a Board. Mr. Henderson asked who will reach out to Ms. Bentzoni. Mr. Horvath said he will.

Mr. Piorkowski asked Mr. Hoffman of the other road. Mr. Hoffman said the other is Bigley Rd. Mr. Piorkowski asked if anybody was present from Bigley Rd. Nobody was. Mr. Hoffman said they were driving around with Mr. Horvath looking at different options for the stone roads. It's more or less someone's driveway or access to fields which is why he thought of looking into vacating. Mr. Tirrell asked if that also has two property owners. Mr. Steiner thinks there are two homes, one when you turn right off of SR 946 with the barn across the street, and another further up on the right-hand side. That person would still need to have access to his home from SR 946 or Glase. Attorney Backenstoe said if they vacated the road, and the person owned both sides, they would own the property. Mr. Steiner said it's a different property owner behind it. Attorney Backenstoe said that person would have access. Mr. Horvath clarified access would be over what was the public road if vacated.

Truck Studies

Mr. Hoffman would like truck studies done to some of the Township roads including tractor trailer restrictions. He would like to work with Mr. Horvath, so the Board can investigate truck studies on some of these roads. Mr. Piorkowski approved asking they come back with recommendations on what to do.

FIRST REGIONAL COMPOST AUTHORITY (FRCA)

Ms. Kerbacher reported on behalf of Mr. Gable. He was reappointed as chairman. Wood chips are available. They have lots of product, and the equipment is running fine. Attorney Backenstoe said they have a lot of mulch and need people to take it.

NAZARETH COUNCIL OF GOVERNMENTS (COG)

Mr. Piorkowski said they held reorganization and re-appointed all the same officers. There's another meeting next month.

RECREATION COMMISSION

Ms. Jodi Hartzell reported they are receiving field requests and will probably have them for next meeting. She will also work with Mr. Steiner on a calendar for the Recreation Center. They are also bringing back the brick program to place new bricks by the flag at the football field. Mr. Piorkowski asked if it is additional bricks, and she confirmed it is. He asked if they were replacing bricks. Ms. Hartzell said they would replace the ones that are not engraved. Mr. Steiner said they still need information pertaining to Playground in the Park. He also needs the bill for the cleaning of the snack stands.

HISTORICAL COMMISSION

Associate Members as Voting Members

Mr. Tirrell said there was a question about having associate members being able to vote. He thinks it was discussed with Attorney Backenstoe and asked confirmation that is not allowed according to the code because they're not residents. Attorney Backenstoe explained, in 2013, the Board of Supervisors by ordinance created the Moore Township Historical Commission. They designated at that time the Historical Commission shall consist of five to seven members who shall be residents of the Township. Those five to seven members are voting members. They also created a category for three associate non-voting members who do not need to be residents of the Township. One or two years later, they amended the ordinance to increase membership from seven to nine members. The Township has a Historical Commission created for itself under the Second Class Township Code. He thinks they can appoint associate members who are non-residents, but he doesn't think the Board could have them vote. They can have residents vote like the PC, ZHB, etc. Otherwise they could at some point lose the board to non-Township residents. Mr. Tirrell asked if to get the quorum they would go by nine or only the active members. If they only have seven active members, would the quorum be four? Attorney Backenstoe said

yes. Mr. Piorkowski asked what he means by active members. Mr. Tirrell said sitting members of the board. It calls for up to nine, but they only have seven that are on the board. Mr. Steiner said the ordinance reads it can hold seven to nine members, so technically they have a full board with seven members. Quorum may be different if they have seven, eight, or nine members. Attorney Backenstoe confirmed they could have up to nine members, but seven members is a full board and the quorum would be four.

Edelman Schoolhouse Projects

Mr. Tirrell reported Mr. Bob Fedio is looking at updated lumber prices for the floor. Mr. Piorkowski said this has gone on for about ten years, and he doesn't know if they're making progress. They seem to keep going in reverse. He asked Mr. Hoffman or Mr. Horvath if there's somewhere they can go to have a contractor review and tell us what is needed to completely finish the project and put it out to bid. Mr. Horvath is sure they could find somebody if Board is interested in getting bids. Mr. Piorkowski is interested in getting the project to conclusion. If it's supposed to be a legacy to somebody, and the Historical Commission is aging, he thinks the proper thing to do is to get a conclusion for the project. They worked real hard to get where they're at now, and he thinks they've been stagnated. Mr. Hoffman said they're trying to do as much as they can with what they have, but he thinks it's hard to find people who want to volunteer. This might help the process along. Mr. Shaffer said it doesn't hurt to put it out to bid and get a price, and Mr. Tirrell agreed. Mr. Shaffer thinks Historical would agree to get it done as fast as possible and as accurate as possible. He thinks that might check off both boxes, and Mr. Tirrell agrees. Mr. Horvath said he can find some people who are qualified to help as it is outside his scope of expertise. He can reach out to an architect or a restoration specialist. Mr. Shaffer thinks they will need Historical's help as far as what is left on the project list. Mr. Horvath asked if Historical knows what needs to be done. Mr. Shaffer and Mr. Tirrell said they have a good idea. Mr. Shaffer asked if they can get Mr. Horvath a list. Mr. Piorkowski thinks along with a list, if Mr. Horvath can get a professional who does restoration work, they may find work that doesn't need to be done. He can show them the list, or not, and ask what he thinks is needed to complete the project so it's historically correct. Mr. Horvath thinks it would be best if the commission or a member or two would be involved in the process as he wouldn't be able to suggest what is or isn't historically accurate. A specialty contractor might be able to. Mr. Piorkowski said it would be a start to bring in somebody who can look at it. Mr. Steiner said they need to put together a scope of work. If he works with Mr. Hoffman, Mr. Fedio, and Mr. Longley they may be able to come up with something. He will send a list of projects provided by Historical that might be able to help get started. They have had problems since then with Mr. Horvath understanding they had problems with the floor.

Mr. Tirrell asked if there's any update on electric. Mr. Steiner reported Mr. Harhart was supposed to reach out to Labor & Industry (L&I). L&I hasn't gotten back to him. BEI, who has been helping with the project, suggested somebody else at L&I. He asked if Mr. Harhart heard back who indicated he had not.

Member Resignation

Mr. Chad Brandon submitted his letter of resignation but would like to stay on as an associate member. He donated the slate roof. He was appointed secretary last year but was unable to make a meeting because of his work.

Mr. Shaffer made a motion to accept Chad Brandon's resignation and thanked him for the roof

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Appoint Members

Maryellen Miller submitted a letter of interest with a background in doing research into genealogy studies. Mr. Tirrell said she attended the last meeting, and the commission recommended to appoint.

Mr. Shaffer made a motion to appoint Maryellen Miller to the Historical Commission

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

LAND & ENVIRONMENTAL PROTECTION BOARD (LEPB)

Mr. Bob Romano reported they reorganized, and officers stayed the same. He is chairman, Ms. Maureen Romano is vice chairman, and Ms. Kerbacher is secretary.

Appoint Members

Mr. Tirrell made a motion to appoint John Neirer and Robert Fehnel to the LEPB

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

COMMUNITY DAYS COMMITTEE

Ms. Kerbacher reported they're scheduling the first bingo, a household bingo, on March 12. It will be at the Klecknersville fire company. Tickets are \$25. Someone asked if food was being sold. Ms. Kerbacher said the fire department sells food.

Small Games of Chance License

The committee asked for permission to apply for a small games of chance license for Community Days. If they wanted to have a wheel, they needed a small games of chance license.

Mr. Shaffer made a motion to add Small Games of Chance 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 allow Community Days to apply for a small games of chance license

Mr. Koehler asked what the price is. Mr. Tirrell said it isn't a lot noting MTAA just renewed. It's \$25 to \$50. It's cheaper than a liquor license.

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Ms. Koehler asked a question on Community Days, vendors, and the percentage of sales. Ms. Kerbacher said Ms. Rebecca Miklas based it on the food trucks they were getting. She didn't know. Ms. Koehler is a co-owner of Gerks Barbecue, a food vendor. They have been at Moore Township before, at least one year at Community Days. The year they attended, they gave a percentage of their sales afterward. She

was told that year it depends on who you know as to how much you give. Ms. Kerbacher said that's not true. Ms. Koehler said that's what she heard, and Mr. Koehler said that's what he was told. Ms. Koehler said they gave a percentage of sales. The next year came, and they got a letter in the mail that said they needed to give 25% of gross sales. Ms. Kerbacher said it was a standard letter Ms. Miklas had for food trucks. Ms. Koehler has been to other events, has been at Moore Township for many years, and they have a small business. They are going to other communities who only require 10%, 15%, or none of their sales. Moore Township is where they have their kitchen. When they were at Community Days, their line was so long. People loved their food and keep asking why they aren't coming back. The letter said they have to give 25% of their gross sales plus a fee for the space. They are going elsewhere to keep their business going. They would love to stay in Moore Township. However, that's a lot because they pay the people who work for them, even if it might be their kids, family, or friends. Of all places, she thinks it needs to be addressed because it's not just them. She is speaking for herself and other businesses or vendors that are there. It's not right and asked why it's so high. Mr. Koehler said he's retired and doesn't need to do this. They chose to do it, for example at Community Days, because they walk there so many times over the years and there's no food vendors. After he retired, they decided to start the business. They don't charge \$8 for a hamburger, \$6 for a hot dog. They give people a full course meal for \$15-\$20. It makes it tough because they try to give people, who may not have a lot of extra money, an opportunity to have a good meal at a function in their community. He's not trying to cry on anybody's shoulder because at the end of the day, they don't need this. They just paid \$400 at the Klecknersville Rangers to have an event because the people who went to their events in the past want to know where they can get their food because they're not allowed to sell it from their commercial kitchen as part of the agreement with the Township. They adhere to that. It's a little disheartening when you try to do something for the community, and you're hindered. Ms. Koehler said they had to pay \$400 to serve their meals. Mr. Koehler said \$2.25 a plate. Ms. Koehler said they had to give out 21 meals free to serve their food in Moore Township, where they live, and where their commercial kitchen is. She doesn't mind paying a place to have their food. Nothing makes sense with this, and she is asking if the percentage of sales can be revisited. Ms. Kerbacher said when they do the concerts, they have a certain percentage because it's only a couple hours. When it comes to Community Days, it's Friday night and all-day Saturday. That's why the percentage increases. Mr. Koehler told her she's wrong. Ms. Kerbacher said they got a standard letter, the same letter given to the other food vendor, and she had no problems with the other person when he gave them their percentage, Phil's French Fries. The committee decided to go with the food trucks and go with what the food trucks were getting. Ms. Koehler said Mr. Koehler went to another vendor and asked what they thought about the letter. The other vendor never got the letter. Ms. Kerbacher asked which vendor. Mr. Koehler said he wasn't going to tell her. Ms. Koehler said the other person the year before told her it depended on who you know. Ms. Kerbacher said they didn't do letters the year before. Mr. Steiner interjected. He said things have changed a lot with Community Days and vendors. When he first started in 2018, he thinks they only allowed one vendor, the churches, and the committee. He knows there's a different chairman, things are being run differently, and they're trying to figure it out. He asked Mr. Piorkowski, the liaison to the Community Days Committee, to take this issue to the board and Ms. Miklas to make it clear the percentages and establish up front to make sure everyone is getting a fair shake who asks and requests to be a part of it. If the Koehlers have questions or comments on the percentage of how high it is, the Community Days Committee has a public meeting each month the second Thursday of the month at 6:30 pm at the Township building. That would be the time to express their ideas. Ms. Koehler asked why Community Days is being brought up. Mr. Steiner said it's brought up every month with Mr. Piorkowski explaining it's for the committee to provide a report. Ms. Koehler understands and just asks if it can be revisited. Mr. Steiner reiterated that Mr. Piorkowski is the liaison to the committee and can take it to the committee. However, it's a public meeting at which they can also attend and discuss the issue making clear that all the vendors need to be treated the same. They should be, and it should be established at the start. Mr. Piorkowski said the next meeting is this Thursday,

February 9. Mr. Steiner reminded them this is a committee of volunteers, they're trying to figure this out as they go along, they've had a lot of turn over, and a lot of volunteers have changed over the years. Go to the meeting and try to have a productive conversation because it's good to hear from people, especially those part of the community, who are trying to be a part of Community Days and cannot do it. That being said, if they establish a certain rate and you can't do it, you can't do it. That's the way it is. At least they can discuss at the public meeting. Mr. Piorkowski can't imagine why they would only send letters to certain people. Ms. Koehler said she doesn't understand either and can only describe what happened to them. Mr. Koehler questioned the vendor who didn't know what he was talking about. Mr. Piorkowski said when it first started, they let churches participate for no fee but a donation. It's why it could be true what he said where some gave nothing, some gave a little, and some gave a lot. Mr. Koehler understands and said there's no one fairer in this room than they are. Mr. Piorkowski reiterated what Mr. Steiner said that the event has evolved and is different from when it started. Mr. Koehler reiterated they don't need it, but people are coming to them to see where they can get their food. They're doing it for those people. Mr. Piorkowski understands noting he started a kielbasa truck after he retired. Mr. Koehler said there were also stipulations they had to adhere by, and they did, but some things have come to light that he read in the Home News that they are going to address at the next regular ZHB meeting.

ZONING AND BUILDING OFFICER

Mr. Harhart submitted his December and January report.

TOWNSHIP ENGINEER

Church Rd Culvert Project

Mr. Horvath reported there is a preconstruction meeting scheduled for this Thursday, February 9. The contractor expects delivery of the culvert by the end of the month. He would like to mobilize prior to that and be in good position to install the culvert.

Schiavone Farm Sediment Erosion Project

Keystone has contacted the contractor on numerous occasions requesting he send the payroll paperwork so the Township can release the final retainage. He's awaiting the affidavits for payment to subcontractors. Mr. Horvath expects a recommendation for release of final payment next month. Regardless, it has been placed in maintenance.

MS4

Keystone surveyed the London and Attenborough basin early in the week and did a partial survey of the McMullin property. McMullin had some unanswered questions relative to the way it was laid out on the exhibit. They finished the survey, and Mr. Horvath will give him a revised exhibit. It should address his concerns. The remaining two or three properties are on their survey coordinator schedule and hope they will be up sooner rather than later.

MS4 Stormwater Management Ordinance Update

Mr. Horvath provided a memo and cover letter to the Board for a mandatory update to all stormwater management ordinances statewide that is being handed down by DEP as part of the NPDES MS4 permit the Township holds. They provided the language and want the municipality to incorporate it into their ordinance. There's little flexibility except for a couple items. One of them deals with riparian buffers. This section is completely optional. A riparian buffer is a preserved area alongside a stream that would act as a natural filtration of pollutants within the stormwater runoff prior to reaching the stream. DEP would love for it to be incorporated but is not requiring it. The PC recommended including it but with a slight variation of the language. The DEP language suggests a 35 ft width of buffer on each side of the stream or the limit of the 100-year flood plain. The Township's ordinance currently reads 20 ft centered

along the stream, so 10 ft on either side of the stream, at a minimum or the 100-year flood plain plus half foot of freeboard. There is an addition to the DEP language that the Township ordinance currently requires in its maximum extent, but it is still less than what the DEP is suggesting at the low end. It would be 20 ft vs what would amount to 70 ft. The PC preferred the lesser of the two not to create any added burden or hardship on the property owner by increasing the width of the buffer requirement.

The other DEP recommendation is a section referred to as LID (low impact development) and green infrastructure. Green infrastructure low development impact methodologies are an attempt to recreate a natural infiltration condition where there are a lot of little features like rain gardens, vegetated channels, or other things that will put water back in the ground more or less where the water hits the ground as opposed to channelizing it to storm pipes, bringing it to one big basin, and infiltrating there. They are trying to maintain more consistency with respect to the natural infiltration conditions that are present. The ordinance language DEP is suggesting reads “if methods other than green infrastructure and low impact development methods are proposed to achieve the volume and rate controls required under this ordinance, the stormwater management site plan must include a detailed justification demonstrating the use of LID and green infrastructure is not practical.” It’s not requiring it, but it’s requiring at least consideration and justification as to why it’s not practical if not proposed. It’s a good idea if the primary goal is environmental preservation. It may be considered more onerous on a developer because it’s more efficient to build one big thing as opposed to multiple things all over the property if doing a land development or subdivision. He doesn’t have a strong opinion either way noting both can be used effectively to meet the runoff rate, volume, and quality requirements. It’s minor language and just that segment. They can very easily strike it or keep it, but it’s there for consideration.

In general, the required language doesn’t so much materially change the stormwater management ordinances currently in place. It more so enhances them. In his opinion, it attempts to bring it more in line with the requirements of the MS4 program. It deals with ongoing maintenance of stormwater management BMPs, places responsibilities on property owners to continue that maintenance, places responsibilities on the Township to make sure homeowners are completing the maintenance as they’re supposed to. It adds additional restrictive discharges to prevent pollutants from being introduced into the streams and waterways. There’s prohibited discharges, roof drains, sub pumps, alterations of stormwater BMPs, etc. It enhances what the Township has currently more than change it. It’s more on the administrative end of things with the exception of the LID, green infrastructure, and riparian buffer. Those are more physical, structural best management practices. It’s administrative for design and development as well as for follow up long term maintenance responsibilities and prohibited discharges. Mr. Horvath explained to the PC the Township currently has two stormwater management ordinances. One is for the Monocacy Creek adopted in 2018. This was another requirement of the state for land within the watershed. The second ordinance covers everything else. When building or developing in Moore Township, a person needs to know where they are located whether in the Monocacy Creek or other classification. The two ordinances are similar following a similar sequence as this proposed ordinance. They’re different enough where he doesn’t think it makes great sense to try and put them together. Unfortunately, it’s easier to maintain two separate ordinances, but he’d like to look more closely to confirm. This is the direction he’s leaning and recommending to the PC. He would like to incorporate this language into the Monocacy Creek ordinance as well as the other ordinance. He can put in the riparian buffer language or as recommended by the PC. He could also put in the low impact development and green infrastructure language which can just very easily be stricken if they think about it a little more and come up with a position. At this same time, because it makes sense to do so, the stormwater management ordinance for all other watersheds is the original 2003 ordinance with a 2005 amendment that is unconsolidated. He would like to put it altogether so it’s easier to read through and is a housekeeping item that makes sense to do at this time. Mr. Horvath would also like to keep much of the

language unique to the Township that encourages infiltration and other things because there are some good non-typical items the Township decided to include in the ordinance at the time it was adopted as opposed to the strictly standard language. He would like to present at the March PC meeting for their review and then make a recommendation to the Board to begin the adoption process which Attorney Backenstoe can guide them through.

Mr. Shaffer made a motion to allow Mr. Horvath to start drafting the revised stormwater ordinances

Mr. Tirrell seconded the motion

Public comment

Mr. Jim Serfass at 999 Liberty Street said the stormwater that comes off of 462, Mr. Makoul's place, is totally neglected. The stormwater drain system is plugged up. It is supposed to cross under Liberty St then under E Scenic and disburse into the woods across. It floods out his front property and out to E Scenic to the point it's three inches deep, 100 ft long. Come winter time, it is a frozen, slimey mess. At the corner of Seneca, which is Ms. Barral's corner, there's a drain culvert where the pond has a split off feed line to the pond, which was a swimming pool and then a retention pond. The maintenance guy decided to pull out the gate that feeds the pond to bring up more water to it and restrict the goings out but also busted down the drain that feeds the creek that runs down and comes alongside Seneca. His deed gives him access all the way around his property. Seneca, Liberty St, E Scenic, and the road piece behind him which used to be called Tioga. The drain run now splitting off from the creek floods Seneca down through, and he can't drive in his yard, go in Tioga, and can't get in Liberty because of the gate put across. He can't come off Seneca, the asphalt road, because it gets to be 30 ft deep into his yard and 100 ft long. That matter needs to be fixed and then hand that property owner the bill, or commit him to fix it before the property is sold because it should not go on the new property owner's wallet. Mr. Makoul should be hammered with the bill to fix that problem, and it's been going on since he bought the property and has done nothing. Now, this mobile camper trailer his maintenance people were living in is parked next to Seneca which is right next to Mr. Evans's place and Ms. Barral's is right behind his house second lot back and sits there, and the culvert on the corner that's supposed to collect the run off from the road and natural drain of the creek split off coming down along Seneca has totally been washed down and collapsed in and feeds across under Seneca to another little water basin where this trailer is parked and sewage is dripped through there. That culvert goes under Scenic and feeds the rest of the creek down through. That situation needs to be looked at. Mr. Horvath said it sounds like it. Mr. Serfass said he'll show him where everything is plugged up, everything is running off, and he can't get off his property. Mr. Evans and Ms. Barral have to park on Seneca, and their driveway is on Liberty which isn't Liberty anymore. But his address is still Liberty. Ms. Barral said Liberty doesn't exist because the sign is gone. Mr. Horvath said he serves at the direction of the Board and if this serves a public matter, he will be happy to investigate it. He doesn't know all the details and if this is all occurring on private properties. Mr. Serfass spoke to the state, county, and Township. He called in 2021. The last he called was April of last year. PennDOT was coming through to firm up the berms to do lines. He asked what to do with this, and the PennDOT employee asked if he called. They took time with a backhoe to open up the pipe. The pipe underneath Liberty St is about 24 inches and about six inches can get through. The one going under E. Scenic is a 36, and it has about 6 inches that can get out of it. It's washing out the road base to the point where if you stand on E Scenic and look toward Point Phillips Hotel you can actually see the road is dropping to where the pipe is under and drops again. The PennDOT worker said he will try to speak with the foreman to get a hold of the property owner to get the drain system working again. Because the drain runs underneath the state road, the whole drain system from the reservoir down through had to be state approved. It doesn't have to be Township affiliated because it cuts underneath the state road. Mr. Horvath said there's miles of drainage that drains under a state road. It doesn't necessarily mean all of those were state approved. A pipe underneath the road is a PennDOT issue. Anything outside of their

right-of-way, PennDOT will tell you it is none of their business. If there's a flooding issue involving a Township road he can look at it, noting it doesn't sound like Liberty St is a public road. Mr. Serfass reiterated the way water has been draining and noted the safety hazard. Mr. Horvath said if the pipe on the PennDOT road is not being maintained, they can reach out to PennDOT. Hopefully they will have better luck than the Township noting the Township is waiting on a number of pipes to be replaced. Mr. Serfass said his address is 999 Liberty, but he can't access his driveway due to the gate that was installed. Mr. Horvath said he can contact someone at PennDOT if the Township would like or take a look at the issue. Mr. Piorkowski asked Mr. Horvath to look at it and do research.

Mr. Tirrell asked a question regarding page 19 of the stormwater ordinance. He asked who does the inspections, Mr. Horvath or Mr. Harhart. Mr. Horvath said it's up to the Township. Different municipalities handle it differently. Some send people out and charge an annual maintenance fee or inspection fee. Others send out in the mail a document saying to homeowners with BMPs on their property, "They are aware a, b, c, and d is on the property and you're responsible for the maintenance thereof. Please let us know what you did in the last year and confirm it is being properly maintained in accordance with the NPDES permit for the property." The Township's MS4 program is set up to allow the reporting and identify of maintenance activities to be the responsibility of the property owner. The homeowner is responsible for the maintenance, and the Township is responsible for enforcement of the maintenance. However, that can be handled in different ways. It is currently set up to send a homeowner a letter asking for them to confirm what has been done to maintain their stormwater management facilities. However, the Township could periodically inspect. There is a rights of entry section that allows the Township to go on a property with proper notice to look at stormwater management facilities. Enforcement and those types of authorities are on the Township. Maintenance is on the landowner. The inspection could be a combination of both.

Mr. Steiner asked confirmation Mr. Piorkowski directed Mr. Horvath to look at the issue on E Scenic and Liberty St. Mr. Piorkowski thinks he should look at it knowing it does have an issue on a state road at E Scenic. He said Mr. Keith Zechman has reported this issue a couple times. Mr. Serfass said Mr. Makoul's maintenance guy taking the gate out which kept the amount of water in the pond which is what they call a reservoir on paper. By him doing so, when it rains, the pond over breaches rather than go out the gate which was taken off to put fish in. It brought water down Mr. Zechman's road, Birch, which is next to Liberty. Mr. Piorkowski said Mr. Horvath will get his information to see if he can help.

Mr. Koehler asked about defecation of animals on Bushkill Dr as to whether it's an issue regarding stormwater. Mr. Horvath said it is a concern regarding pollution. Any time you can get livestock away, that's where the riparian buffers come into play. This ordinance wouldn't necessarily apply until, or if, that property owner were to develop the property. Then it comes before the Township under the regulation of the stormwater management ordinance. He could look more closely at prohibited discharges, but it's separate from the stormwater management.

Motion carried with all Supervisors present voting aye

TOWNSHIP SOLICITOR

Agritourism/Agritainment Ordinance

Attorney Backenstoe explained the agritourism/agritainment ordinance isn't ready for adoption but is ready for consideration. In the past, some ZHB members have requested an ordinance, for a double-edged sword. Farms are struggling and are going to start bringing businesses in. They don't think the ordinance properly regulates them. The other side was that not only does the Township not regulate them, but they should allow additional uses on farms because it helps the farmers who in some cases are struggling. He was asked to put together an ordinance that mirrors neighboring municipalities including

Bushkill and Plainfield which allow for the new concept of agritainment and agritourism. He put together a draft ordinance and asked it go to PC for thorough review and consideration. They reviewed it, established a committee, and refined the ordinance requesting Attorney Backenstoe to draft revisions. It is now sent back to the Board for consideration. There are two areas. Agritainment, which is accessory to the principle use of farming. It is in the venue of weddings, gatherings, reunions, etc. Agritourism is more enterprise activities on the farm such as pick your own like pumpkin patches. The initial direction from the Board is agritainment and agritourism activities should be permitted in all zoning districts by special exception. This means it is a permitted use but needs to go to the ZHB for review before it would be permitted so that the applicant could show it complied generally with the Zoning ordinance and comprehensive plan. This law also provides specific requirements for both. For example, it covers the acreage, adequate parking, maximum patrons, and signage. It refers to other provisions in the existing ordinance such as parking. If the Board would like to move forward with this, he would advertise it twice, two successive weeks, not less than 30 days or more than 7 days before the meeting. They would then have a hearing to adopt the ordinance if they're so inclined. The Board can discuss it, think about it until next month, or ask Attorney Backenstoe to advertise it for consideration and potential adoption at an upcoming meeting. Mr. Shaffer and Mr. Tirrell would like time to review, so the issue was tabled.

Forestry Amendment

Attorney Backenstoe explained there was a lot of input from property owners engaging foresters to do logging on their property. This issue involves two nuances of the current logging and forestry ordinance. The first is, the ordinance currently requires an individual who is going to be logging or foresting commercial have a soil and erosion sedimentation control plan in accordance with the state regulations. That is still appropriate. However, the Township ordinance required they get a letter approving the plan from the Soil and Conservation District. A number of people contacted Mr. Harhart stating they don't think it's appropriate. Times change, especially pro-farming and pro-forestry, and the Attorney General did issue one or two opinions stating they don't think it's appropriate to have them get a letter. Attorney Backenstoe doesn't know what the big deal is noting there's no real fee. Nonetheless, foresters don't want to do it, and the Attorney General rendered an opinion that they can't require it. He amended the ordinance to keep the requirement they have an erosion and sedimentation control plan in accordance with state law, but they don't have to submit it to the conservation district. He contacted the conservation district for input, and they did not care one way or the other.

The second issue was the Township requires loggers to enter into a bonding and road surfacing agreement. The attorney general indicated because of Right to Farm and inability of townships to regulate farming in any fashion other than for other uses. For example, they don't require a contractor who may be putting in a residential home development in to bond the road, so they can't require a forester to bond under the same principles. This still requires they not damage the road and are technically responsible for the damage if they cause the damage, but the Township can't require them to bond so the bonding language is removed. He thinks this will address the complaints Mr. Harhart received as well as the opinions of the Attorney General's office.

Mr. Shaffer made a motion to have Attorney Backenstoe advertise the forestry amendment ordinance

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Attorney Backenstoe reported they had six or seven full hearings before the ZHB concerning the Water's Edge case. A developer purchased Southmoore and want to put up two warehouses on the property pursuant to the land use submissions. The Township engineer issued a review later in combination with the Zoning Officer's comments, and the applicant felt they couldn't comply with a lot of those. They filed about twelve instances of relieve for the ZHB. The ZHB has been having hearings, three-hour sessions, at the fire hall. Attorney Backenstoe was asked to make sure the ordinance was fully complied with to the extent possible, and he has done so. He offered the testimony of Mr. Harhart and the Township engineer, and repeatedly cross examined their engineers. They went through four full blown hearings where they consistently indicated they could not comply with the provisions for which they sought relief. After the fourth or fifth hearing, they submitted a concept plan which did comply with many of the provisions for which they alleged they couldn't get relief which was an interesting dynamic. Pending before the ZHB, the record has been closed with all the testimony submitted. All the exhibits have been submitted. The ZHB has 45 days to render a decision. They want to take some time to digest the hours of information and will meet this Friday, deliberate in executive session, and render an opinion. There are multiple, different ways they can go with this, and they will need to see how the ZHB rules on this whether the applicant met the burden of request for relief and whether or not they want to entertain thoughts of this new concept plan. After they make a ruling, they have another 30 days to render a written decision. Either the applicant, the Township, or the applicant and the Township can file an appeal if not satisfied with the decision. Mr. Piorkowski asked who hears the appeal. Attorney Backenstoe said it initially goes to the Northampton County Court of Common Pleas. They don't hold a hearing. They look at the record from the Zoning Hearing Board including the transcripts and exhibits. They hear oral argument, legal argument, and written argument from both sides. They then render a decision. If either the Township or ZHB is not happy with the decision, they have an automatic right to file an appeal with the Commonwealth Court which is the first level of appellate procedure. If somebody is not happy there, they can file an appeal to the Supreme Court. However, that appeal is not necessarily granted. If the court thought there was a new issue, novel issue, constitutional issue they want to address, they could hear it but don't necessarily have to. If they decide not to hear it, the decision of the Commonwealth Court stays in place.

Attorney Backenstoe also provided an update on the PUC, Met-Ed substation litigation which they agreed to be a part of because there were residents upset and concerned, who are represented by Attorney John Kotsatos. Attorney Kotsatos has taken the lead. They are working through the PUC process trying to acquire as much information as possible. They put together a written statement of Mr. Harhart and Mr. Horvath on the Township's behalf and submitted. They are in large part pre-empted, but there are certain avenues for which they can request relief. The residents are requesting relief on their end.

TOWNSHIP MANAGER

Mr. Steiner said they started the Parks, Recreation, and Open Space Plan process. They had a workgroup to discuss the process from applying for a grant to completion of the plan. He and Mr. Harhart will attend the Livable Landscapes grant workshop next week and work on the application to apply for a grant to update this plan. The Open Space Plan would be updated to incorporate other areas of parks and recreation.

RESOLUTIONS & ORDINANCES

Resolution 2023-10 Non-Uniform Employee Handbook

Mr. Steiner doesn't think they have had a handbook for non-uniform employees, and this took a couple years before finally getting the union to agree with the provisions. Once it is approved, he will hand them out to employees and collect signatures noting they read the handbook.

Mr. Shaffer made a motion to approve Resolution 2023-10 Non-Uniform Employee Handbook

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

OLD BUSINESS

NEW BUSINESS

CORRESPONDENCE/MEMOS

Zoning Hearing Board Increase Request for Stenographer, Attorney, and Members

Mr. Steiner explained the ZHB letter to the Board asking they approve a 3% increase for the ZHB stenographer and attorney. He believes that is consistent with their fee schedule. The other portion of the letter concerns the ZHB pay. Currently, the ZHB, PC, and Board of Supervisors receive \$25 per meeting. From what he understands, the Second Class Township Code requires them to adopt an ordinance establishing a rate of pay. Whatever the Supervisors receive, the ZHB and PC would as well. Attorney Backenstoe corrected, the ZHB and PC members cannot receive a higher amount than the Board. It can be equal to or lower. Mr. Steiner said the ZHB are requesting an increase from \$25 per meeting to \$35 per meeting. From what he understands, if the Board adopts this it would go in effect following the next Board of Supervisors election. It sounds like the Supervisors would get the old rate until their position's election comes up again to get the new rate. Attorney Backenstoe said the language isn't perfectly clear. He thinks they can set a new rate, but they need to do it before the next election so any new candidates would know what the salary would be. They cannot vote themselves a raise while in office. Mr. Piorkowski asked if the auditors were the only ones who can give them a raise. Attorney Backenstoe said no, the auditors set the salaries of working Supervisors. Mr. Steiner said the ZHB is requesting an increase to \$35 which would also need to increase the Board of Supervisors to at least \$35. They could then decide what to do with Planning. He doesn't think that necessarily needs to be addressed right now, but the salary for the stenographer and solicitor should be addressed. Mr. Tirrell asked if it comes out of zoning fees or general fund. Mr. Steiner said zoning fees are supposed to, theoretically, cover the cost of the zoning office. However, they are also not supposed to be prohibitively expensive. At the end of the day, the zoning fees aren't covering the full cost of the office. Attorney Backenstoe said there's no way they can charge a fee that's going to cover every case. For example, they may get somebody who comes in with a mom and pop barbershop to put a chair in their basement. They pay \$1,000 for a full hearing. You may get an entity like a warehouse and there are four or five nights of paying all those people, but it's still \$1,000. They hope that they're averaging out over the course of time. It's all they can do. If an applicant like a warehouse asks for a continuance and needs to readvertise, they can ask for the applicant to pay the advertising. Mr. Tirrell's issue is this should have come before them during the budget. Mr. Steiner said those fees are usually given at the beginning of the year, not necessarily in October or November when passing budget. Mr. Tirrell doesn't have an issue with 3%. They can table the other. Mr. Piorkowski asked if there's enough money in the budget for a 3% increase. Mr. Steiner said it varies. Some years it works out because there aren't a lot of hearings. Other years it doesn't work out. They have been fine the last few years, and they anticipated a lot of expenses with all the current issues.

Mr. Shaffer made a motion to approve the 3% increase for the stenographer and attorney of the Zoning Hearing Board

Mr. Tirrell seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Piorkowski read a correspondence from a resident on Copella Road regarding speeding on Copella Road. Mr. Steiner said it's the state road section of Copella Road. Chief West is familiar with the gentleman who wrote the complaint. Somebody told him through the years that because he lives on a state road that only the state police can enforce the speed limit on the state road. Chief West told him that was not true. The resident also volunteered to let them sit on his property. The problem is there isn't enough sight distance to run the speed equipment on his property. They can look at other spots on the roadway to enforce the speed limit. He's the only one they ever encountered complaining about the speed there. Mr. Piorkowski asked if they still had the speed trailer. Chief West said they have it, but it's not working properly. It's old, and they're not sure if they can get it working again. Mr. Steiner said they're awaiting approval of an LSA grant regarding it. Mr. Shaffer asked if he could put patrolman over there, and Chief West said he would.

OPEN TO THE FLOOR

Neil and Cathy Heimsoth moved into Moore Township from Hanover Township. Ms. Heimsoth had a neighbor complaint. They added a pony to their property, and a neighbor sent Mr. Steiner an email. She would like to find out who it was because she doesn't know why there was a complaint. They knew more about her property than she did. She spoke to Mr. Harhart about an ordinance having four large animals on six acres. They have 5.77 acres. She asked if the ordinance could be changed noting Lehigh Township has an ordinance based on weight, not number. She spoke to Mr. Harhart noting it does make sense because the issue with large animals has to do with waste. Four large horses would make a lot more waste than four goats. She has two horses, a little donkey she saved, and this visiting pony. She wants to learn more about it because her goal was to get a mini to go with her donkey or get a mini donkey. Mr. Heimsoth said they saved the donkey from a farm in Moore Township from a drug addict who let the property go. They're not looking to raise horses. Mr. Piorkowski understands. He asked Mr. Harhart if they would be able to apply for a variance. Mr. Harhart said he spoke to Ms. Heimsoth about that as well. Mr. Heimsoth asked the cost of the variance. Mr. Harhart said it's \$750 for animals. Ms. Heimsoth said it's expensive. The prior owner applied for a variance because she wanted to breed and extend the barn. This is just for her grandkids. Mr. Heimsoth said the horse is retired. Ms. Heimsoth said the property is well maintained. Mr. Heimsoth said the waste doesn't run downhill. He asked if they could lease .32 acres from the adjacent landowner. Ms. Heimsoth asked if they could do that to not get rid of the animals. Mr. Tirrell asked Mr. Harhart what the issue is. Mr. Harhart explained Mr. Steiner got an email complaining about the number of animals on the property. He gave the property owner a call to let them know the complaint came in. There wasn't an official complaint. The residential ordinance reads an acre and a half per large animal. Ms. Heimsoth has at least one over the allowed number. She would either have to do a lot line adjustment with the adjoining property owner to get over six acres or try to get a variance through the ZHB. He thinks what Ms. Heimsoth is asking is for the PC to consider looking at the animal ordinance which hasn't been changed since 1973 that talks about large and small animals. Ms. Heimsoth said that's right. Mr. Shaffer thinks the ordinance should be looked at noting there sounds to be a lot of gray area. Mr. Tirrell asked what animals they had. Ms. Heimsoth said they have two horses, a miniature donkey, and a pony. Mr. Shaffer asked Mr. Harhart and Ms. Kerbacher to place this on the PC agenda and told the Heimsoths it would probably be helpful for them to attend. Mr. Heimsoth asked if they had any advice for them. Attorney Backenstoe likes their honest, simple, clean approach to explain to the PC they'd like them to consider update the ordinance and determine whether or not to amend it. Ms. Heimsoth said she wouldn't have had an issue if the person wouldn't have complained. Mr. Heimsoth said they asked the neighbors if anybody said anything who said they would have told them if they had.

Mr. Zachary Zeitner wanted to provide additional consideration for the ZHB request. Attorney Chad DiFelice, the attorney for ZHB, looked at the five surrounding municipalities and the average salary was \$42. A lot of hours are being put in by the ZHB members not just at the meetings themselves but the research time. Mr. Harhart explained he was asked by Mr. Jeffrey Ayers to call the surrounding municipalities. He provided a list of what every township pays. It ranges from \$100 per meeting at Bushkill Township to \$18 at East Allen Township, if they want it. This is causing the large average. Mr. Tirrell doesn't see it being an issue for the ZHB rate, but the issue is they can't get paid more than the Supervisors. Their rate is \$25 a meeting which is why the ZHB is \$25 a meeting.

ADJOURNMENT

Mr. Shaffer made a motion adjourn the meeting at 8:32 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.