

The Regular Monthly Meeting for the Moore Township Board of Supervisors (BOS) was called to order on Tuesday, July 7, 2020, by Chairman Daniel Piorkowski at 7:00 PM. The meeting was conducted at the Moore Township Recreation Center pavilion. 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

#19-17P/F – Beersville Auto Salvage/Wayne & Sherry Krapf Land Development

Mr. David Frey presented for the Planning Commission. Mr. Kevin Horvath said Wayne and Sherry Krapf are proposing to erect an 1,800 sq. ft. nonresidential building on a 9.3-acre tract located at the southeasterly corner of E. Beersville Road and Main St. It is a rural agricultural zoning district. The use of the property is a junk salvage yard, licensed auto dealership, auto repair, and sales. The applicants are proposing to construct a building for purposes of removing fluids from vehicles prior to salvaging them which is required by law and regulations. The area is a mixture of buildings and car storage. They're building on a stoned area. After much discussion, it was determined there were no storm water management requirements since the net impervious cover increase is less than 10,000 sq. ft. Keystone provided a review letter dated July 2, 2020 prepared since the Planning Commission meeting. The applicant doesn't have any questions or complaints but wanted to discuss waivers first. Mr. Frey said the first waiver deals with the plan scale going from 50 ft to 60 ft. The Planning Commission approved the request for section 5.02.2b scale change to 1H to 60 feet without a waiver. Mr. Frey said it is something they normally do and can do without a waiver, but the Planning Commission did recommend it with the engineer telling them there wasn't a problem with it. Mr. Horvath said it doesn't require any action by the Board. The next waiver dealt with road frontage for dedication and post security for E. Beersville Road for right of way and public improvement. The Planning Commission approved the waiver request for section 5.02.4.f/5.03.4.e, h/4.06.9. This waiver is for them to not give the township dedication and posting for E. Beersville Road and right of ways. Mr. Horvath said because the project falls under the definition of land development, there are minimum required road frontage improvements regardless of the size of the scope of the land development project. Any road not built to current township standards, right of way width, and other things shall be improved by the applicant to meet those standards. E. Beersville is a township road and Main St. is a PennDOT road. Typically, the township would not require improvements along a state roadway unless required by PennDOT, which they weren't. Mr. Horvath said E. Beersville is deficient in terms of width, right of way, and curbing, design requirements mandated to meeting minimum requirements for land development. The applicant has requested waivers from those requirements including dedication of right of way, road improvements, and requirement to enter into developer's agreement to secure those improvements. Mr. Frey said the Planning Commission didn't think the waiver would be a problem. Mr. Horvath said one specific item of relief was a pipe in E. Beersville Road that carries a branch of the Monocacy Creek through the road and the subject property. Part of the requirement would be to extend the pipe and put a head wall or end wall on it. If the pipe is unsuitable for extension, the applicants are required to upgrade the pipe. Mr. Horvath spoke with Mr. Leon Fenstermaker who indicated the pipe is not in good condition with Mr. Fenstermaker confirming there's no bottom. Mr. Horvath said in this case, a generic requirement to extend the pipe to the edge of the right of way turns into a permitting process and replacement of the whole pipe. Mr. Frey said the Planning Commission wanted the road crew to look at the pipe before making a recommendation. He

said they are not doing any improvements along the property, and they're not dedicating anything to the township. The applicant's representative also said in this case, they're not proposing any improvements to the road frontage, and all the water runoff is actually downstream of the pipe, so they're not proposing any flow pattern changes to the stream. He said it becomes a hardship on the resident or applicant when you have to replace an existing culvert in the township road as it becomes a GP-11, a state permit. The applicants would spend almost as much in engineering costs and permit as they would for the actual pull building. Mr. Gable said the pipe has been bad a long time, and the fact they aren't doing any work around the pipe, he doesn't feel they should be made to do anything up front. The responsibility should be on the township to replace the pipe, and they should give them a waiver for that pipe. Mr. Frey said the Planning Commission side is leaning that way too. Mr. Piorkowski asked if they give him a waiver for that part and in the future the pipe collapses, would the Board have the ability to go back on their property, or do they need to get an easement. Attorney Backenstoe asked if it's on a township right of way. The applicant's representative said the pipe is in entirely in the right of way. Attorney Backenstoe said no, the township would not need an easement because it's in the right of way. The applicant's representative said the applicant can't really get in to provide an extension. Attorney Backenstoe asked Mr. Fenstermaker if he'd be comfortable to do some corrective work if needed. Mr. Fenstermaker said yes. Mr. John Becker asked if they added the extension when they changed the pipe, would the extension still be in the road right of way. The applicant's representative said the extension would go to the end of the road right of way according to SALDO. Mr. Becker said the pipe would be the township's responsibility, and they can widen the pipe without going further into the property. Mr. Horvath said the plan proposes a 50 ft wide easement on each side of the stream. In addition to the right of way, there's an easement being provided following the stream which essentially lines up to the pipe demonstrating more of an opportunity to fix the pipe without going on the property. Mr. Frey said to Mr. Horvath, there's three waivers in the one he read for dedication and posting security for E. Beersville Rd right of way, public improvements, and the pipe. He wanted confirmation the pipe was included. Mr. Horvath said it depends on interpretation as the pipe is part of the required roadway improvements, but he suggests they add section 5.02.3.a to be more inclusive of the pipe extension. Mr. Frey said the Planning Commission as a whole didn't agree to it, but he can add that to the waiver request, and it wouldn't really change. Mr. Becker said he would do the waivers and the pipe separate because it's addressed separately on the report. Mr. Frey said they listed it as if it was approved in the land development project itself. Mr. Becker said when they do the final recommendation, that is where the pipe is addressed. They can give relief for the pipe, and it complies with the Planning Commission reports in the way it was approved. Mr. Frey summarized the conversation. Mr. Shaffer asked confirmation they should vote on all the waivers separately. Mr. Becker proposed the motion be for sections 5.02, 5.03, 4.06. The pipe issue is separate. Attorney Backenstoe corrected, 5.02.4.f, 5.03.4.e and h, and 4.06.9.

Mr. Shaffer made a motion to adopt the recommendation of the Planning Commission and grant waivers for the following sections of the SALDO: 5.02.4.f, 5.03.4.e and h, and 4.06.9

Mr. Gable seconded the motion

Public Comment

None

Motion carried with all Supervisors present voting aye

Mr. Frey said the next waiver is for section 4.16.4 dealing with the distance of a well from an agricultural property. The Planning Commission approved the waiver for section 4.16.4 with the conditions the applicant makes the distance 70 ft instead of 50 ft, and the applicant place a covenant identifying and holding the township harmless in the event there are any issues satisfactory to the township solicitor and the township engineer, and a release to the farmer of third party liability and continuing normal farming practice. Mr. Frey explained the SALDO says a well should be 100 ft to be away from an agricultural

property. The applicant came in at 50 ft, and the commission asked them to do 70 ft. He confirmed with the applicant that is still doable. To not put anybody in harm's way, the solicitor added those comments to be put on the plan. Attorney Backenstoe augmented Mr. Frey's comments confirming the agreement was to grant a waiver of 70 ft instead of 100 ft with two conditions. The first is they put a covenant on the plan satisfactory to the solicitor indemnifying the township and holding the township harmless in the event there is any issues. In other words, it prevents somebody from arguing there's a problem, and the township granted a waiver, so they should be held liable. The property owner is willing to undertake that responsibility. The covenant would be drafted by their engineer, reviewed by Attorney Backenstoe, and placed on the plan once it's satisfactory. The second issue the Planning Commission was worried about is the farmer who spreads farming materials. They are asking the property owner to release the farmer from liability, so they don't have any problems.

Mr. Shaffer made a motion to grant a waiver from section 4.16.4 regarding the 70 ft distance instead of 100 ft on the condition a covenant be placed on the plan whereby the property owner indemnifies and holds the township harmless from any liability associated with this waiver, and the property owner release any third party or third party farmer who during the course of normal farming operations contaminates or causes a problem to their property

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Frey continued, the Planning Commission granted conditional approval of #19-17P/F – Beersville Auto Salvage/Wayne & Sherry Krapf Land Development plan subject to additional language be added to the plan, the township road crew look at the pipe and report to the Board of Supervisors, and a covenant be added to the plan subject to terms and conditions set forth in Keystone review letter dated May 4, 2020. Mr. Frey said the SALDO is looking to give relief from 5.02.3.a dealing with the culvert. Mr. Frey said it would be conditional approval of the project itself.

Mr. Shaffer made a motion to grant conditional/final approval for the land development plan for 2729 E. Beersville Road prepared by Beersville Land LLC dated October 28, 2019 last revised March 2, 2020 so long as the applicant comply with all the conditions set forth in Keystone's review letter of July 2, 2020

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

#20-01P/F – MSG Associates Site Plan

Mr. Mike Preston with Ott Consulting spoke on behalf of MSG Associates for the site plan review at 553 Nazareth Drive. The project proposes a building office for construction management and replaces the former Keystone bank on the same property. There are no public or private improvements proposed. The parcel is approximately 4.7 acres, and they would expect three employees primarily for operations management and to facilitate the direction of the construction crews. They received their first review in January and resubmitted to clarify and address some of the zoning requirements. They received their second review in May and received conditional approval at the Planning Commission meeting the past month. Mr. Frey asked if they are looking to move in without changing any ascetics. Mr. Preston that is correct with one exception regarding parking. Mr. Horvath said they plan to restripe the parking lot. As currently striped, the spaces installed are only 8 ½ ft wide. With the room they have on the site, they are

going to restripe to meet the 10'x20' minimum requirements, and they have enough room to provide all the needed parking. Mr. Preston said they chose to restripe rather than pursue a zoning variance. Mr. Frey said Planning Commission saw everything was in order as far as the review letter, and they can comply with everything in the review letter. Mr. Preston agreed and said they intend to restripe the spaces once the site plan is acceptable. Mr. Frey confirmed with Mr. Preston everything will stay the same. Attorney Backenstoe asked if the Keystone review letter included the restriping of the existing parking area. Mr. Horvath said it does not.

Mr. Shaffer made a motion to grant conditional/final approval for #20-01P/F – MSG Associates Site Plan subject to all the terms and conditions set forth in Keystone review letter dated May 1, 2020 and they restripe the existing parking area to provide parking spaces in conformance with the minimum dimensions specified in zoning ordinance 200-57 through 200-59 unless otherwise directed by the Board

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

REGULAR BUSINESS

MINUTES

Mr. Shaffer made a motion to approve the minutes from June 1, 2020

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 the General Checking are \$108,964.31. The Liquid Fuels bills are \$25,211.67.

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 June 2020.

FIRE & AMBULANCE

Mr. Harhart read through reports for the months of February, March, April, May, and June 2020.

PUBLIC WORKS DEPARTMENT

Mr. Steiner said the report is available. Mr. Fenstermaker listened to a webinar regarding a traffic signal pole study conducted by PennDOT. There was an incident at another municipality in which the traffic signal pole fell causing an accident, so PennDOT is telling municipalities to regularly check their traffic signal poles. The township has one traffic signal pole. Mr. Fenstermaker said it needs to be inspected every six months. Mr. Steiner said the tar and chip started today, and they've been cutting shoulders in preparation. Mr. Fenstermaker said the department also paved and scratched. Whitehead is all that's left to be tar and chipped, and AMS work will be done.

FIRST REGIONAL COMPOST AUTHORITY

Mr. Gable said they meet in the next two weeks. They are having a problem with somebody putting grass in the compost pile. Mr. Fenstermaker said they caught the person. Mr. Gable asked if they were arrested. Mr. Fenstermaker said they asked what he was doing and made him load it back up. The person was unloading when they were filling the dumpsters. Mr. Gable said there's a lot of compost and mulch, and brush keeps coming in.

NAZARETH COG

Mr. Piorkowski said they haven't had a meeting since the pandemic started. He received an email from the COG asking if they would support a stern letter to the state legislature about fireworks. They created a problem, and they need to address it noting legislation was passed that only helped the big cities. The COG is going to put together a letter and sign off noting the dissatisfaction with the problem they created. Mr. Rudy Faustner asked how many complaints they've had. Chief West said they had an increase from last year. Mr. Faustner wanted to know how many. Chief West said he could not give an exact total but can have an answer for the August meeting. Mr. Piorkowski said he didn't receive any, and Mr. Steiner received at least one phone call and an email. He noted people mostly call the police department. Mr. Shaffer said he received one, and Mr. Gable said there are a lot of people talking on Facebook. Mr. Mike Tirrell noted it was for both sides. Mr. Frey asked if they received a lot just this past weekend. Mr. Gable said the problem is they're shooting them off throughout the week, it's not that they're being shot off the 4th or night before the 4th. They're being shot every night, all night. Mr. Piorkowski said he must live in a quiet neighborhood or he sleeps real good.

RECREATION COMMISSION

Mr. Mike Tirrell said USSSA held a softball tournament over July 4 weekend noting they did a good job social distancing and were spread out over four fields across the complex. They were only allowed two spectators per player, each team played two games and left, coaches and teams weren't allowed to stick around. No spectators were allowed near the players. Their action helped MTAA come up with plans going forward. The baseball stand doors were painted, and they looking to completed a couple other doors. New doors were ordered for the football field. Scoreboards were installed by MTAA. Mr. Ron Silfies donated his time and experience with the electric. MTAA baseball is looking to start in two weeks. Football and cheering is on hold noting the regulations are difficult to abide by. The final item is the Richard K. Haupt estate willed to the Recreation Center that was originally passed by the Board of Supervisors to go directly to lights. The Rec Commission feels with the money, along with grants and other funding, they could get more things done instead of just lights. The board still wants to get the

lights done, but they would like the opportunity to look for grants and turn the will into more things including playground equipment and ADA items. Mr. Gable said they still have money from John Topfer that can be used for that, but he thinks this money should be used for the lights. Mr. Piorkowski said he agrees with the Recreation Commission members noting as much as the lights will be used, he thinks the person donating the money didn't donate it for a select group of people with a limited amount of use. He thinks he wanted to enrich the park, and there's so many things they could do, even if they took half and half, for playground equipment and looking at ADA parking. Lights are limited to the time they can be used. He asked Mr. Tirrell if they play night football games. Mr. Tirrell said yes, once in a while. Mr. Piorkowski said he wanted to rescind the motion to put the money toward the lights. Attorney Backenstoe asked for further explanation of the situation. Mr. Piorkowski said the township was bequeathed 63,000, and they voted to apply it to the lights. After the Rec meeting, they would like to not see all of it go to the lights but would like it to further enrich the park. Attorney Backenstoe said assuming it isn't specifically for the lights, the Board could definitely distribute it to other areas of the park noting they can undo that prior action.

Mr. Piorkowski made a motion to rescind the motion applying all the Richard K. Haupt will money to the light project

Mr. Shaffer asked Mr. Tirrell how much is in Topfer. Mr. Tirrell and Mr. Gable said about \$32,000. Mr. Tirrell said he thinks there's \$27,000 in Enterprise. Mr. Shaffer asked for cost of the lights. Mr. Tirrell said the quote they received, noting it still has to go out for bid, was \$93,000. He said the Rec board still wants to install the lights, but they felt they were taken out of the loop with where that money would go. He noted they should be recommending to the BOS where the money should be spent. Mr. Shaffer asked if MTAA is involved with the lights. Mr. Tirrell said yes, and Mr. Piorkowski said they also wanted to look at grants. Mr. Tirrell said the lights would mainly be used in the fall, and it opens it up to other events in the park. Mr. Shaffer said he thinks they're not in a rush, and if they think MTAA could be a donor, it makes sense to him.

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Piorkowski started to make a motion, but Mr. Tirrell asked him to let the Recreation Commission make a recommendation before committing the funds to another project. They agreed to wait and hear from the commission.

HISTORICAL COMMISSION

Mr. Gable said they haven't had a meeting.

LAND & ENVIRONMENTAL PROTECTION BOARD

John Neirer Open Space

Mr. Bob Romano said they're reviewing a property belonging to John Neirer at 3320 Delps Road, 14.7 acres. Mr. Neirer is a member of the board and abstained from any discussion and voting. It's a small property going through open space although it is farmland and pasture. It's too small to go into farmland preservation. All members, with Mr. Neirer abstaining, voted to move forward into preservation. They would like to move this with Heritage Conservancy with costs not to exceed \$40,000. The \$40,000 does not include the cost of the development rights.

Mr. Shaffer made a motion to move John Neirer's 14.7 acres into open space preservation with Heritage Conservancy with costs not to exceed \$40,000 not including the easement cost

Mr. Gable seconded the motion**Public comment**

Mr. Piorkowski asked what does the easement paid by the Township entitle the people of Moore Township. Mr. Romano said they buy the development cost, so it can never be subdivided in both farmland and open space preservation. The township is purchasing the development rights to the property. With open space, they're more restricted with what can be done with the property. Farmland is a little bit more lenient. Moore Township benefits as it is a preserved area for generations to come. Mr. Piorkowski asked if he can walk the property. Mr. Romano said you cannot walk farmland or open space. It remains private property. Mr. Piorkowski asked which one he can walk. Mr. Shaffer said by appointment only, the Groff property. Mr. Romano said Groff was done differently. They were able to go to the county and get part of the development costs paid for, and at the time they were able to do very limited public access. Now, the public has total access for open space under the county program. Mr. Romano spoke to county council people about it who agreed it isn't right. He spoke to the open space coordinator about it, but nobody is budging. He said nobody will preserve their property with total access noting the two preserved with limited access were lucky. They were able to convince them access could only be through Jacobsburg Environmental by appointment only. They had a couple educational groups through the years, but it's been very limited. Mr. Piorkowski asked if the state and county is trying to make it accessible to people in the future. Mr. Romano said they want to allow people who want to preserve their land not to have access. Mr. Piorkowski is asking if the state or county did. Mr. Romano said the county does. If the county puts up money, they want public access. Mr. Romano noted farms don't allow access. The only area with public access is Schiavone where the township created a space which was one of the arguments when he went to the Planning Commission. He heard for years they're preserving properties but don't have access to them. Finally, they have a space preserved that township residents can use. Mr. Piorkowski asked if a person wanted to buy the property after it had been preserved, and the person wanted to build a house or subdivide it, would that person be able to. Mr. Romano said no, it's a deed restriction. Attorney Backenstoe said it's a covenant which runs with the land in perpetuity that would apply to all subsequent landowners. Mr. Shaffer noted some will not put all the property into preservation for that reason. Mr. Faustner asked of all the previous people put into the plan for conservation that they can access, how many are there? Multiple people answered two. Mr. Faustner asked for confirmation it's properties they can access. Mr. Romano said if you make an arrangement through the Jacobsburg Environmental Center, and it was basically done for educational purposes. Mr. Faustner asked who were the two. Mr. Romano said the Groff property and Constenbader property, but that Constenbader property has been resold and doesn't know who the current owner is. Mr. Faustner said he doesn't agree with that. Mr. Romano said it's like all the farms that people want to access, but it's private property. The township bought development rights, but they didn't buy their right of access. Mr. Faustner asked if it was in the ordinance that way. Mr. Piorkowski and Mr. Romano said yes.

Motion carried with all Supervisors present voting aye

McNulty Open Space

Attorney Backenstoe said the township has been working with Heritage to acquire a conservation easement owned by Mr. and Mrs. McNulty for 41.53 acres located on 2200 West End Road for a purchase price of \$167,764.50 which equates to about \$4,500 per acre. The township also agrees to pay for the title insurance and recording fees, each attorney involved with the property pays their own attorney fees, the township pays for survey, real estate transfer tax is paid by the seller, and the township pays to the conservancy a one-time stewardship fee of \$15,000. The Heritage Conservancy is the holder of the easement, and the township is a co-holder meaning the holder has the first responsibility to enforce the easement making sure it's properly preserved and requirements are complied with. If Heritage doesn't act in accordance with a manner the township thinks is appropriate, the township has the right to

take the same action as the holder. The agreement has been reviewed by the sellers, Heritage, and the township with revisions incorporated. The township is purchasing the development rights, they have to preserve the property, and the property can't be built or developed. The agreement is in its final form, and the township can agree to it or table it. Mr. Piorkowski asked if they were still working on the final draft of the agreement. Attorney Backenstoe said they might be working on the final easement description. It's about 200-300 pages of analysis of the current condition of the property and is called the baseline documentation. The goal is to keep the baseline standard forever, and the baseline documentation can be used as proof for future. Mr. Piorkowski asked if the township gets a report from the conservancy every year on the properties. Mr. Shaffer said they go around once a year to do a walkthrough of the properties. Mr. Piorkowski asked if they send it to the township. Mr. Romano said the township would probably only hear about infractions, and so far, they haven't heard anything.

Mr. Shaffer made a motion to enter into the agreement of sale for the conservation easement for Michael and Vallery McNulty

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

COMMUNITY DAYS COMMITTEE

Ms. Lois Kerbacher said they have a meeting Thursday. They won't be able to do the bingo fundraiser and will see if they can in the fall. On Thursday, they plan to come up with a decision on if they can do a condensed version of Community Days which would be fireworks and a live band. She asked the Board for input. Mr. Shaffer asked for the restrictions in the green phase. Mr. Tirrell said 250 people. Ms. Kerbacher asked in how much of an area. Mr. Tirrell said it depends. If each field is considered an area, each field is 250. Mr. Shaffer asked for the committee's thoughts, and whether they would sell limited number of tickets. Ms. Kerbacher said she doesn't think they'd sell tickets. Mr. Tirrell said they could count cars coming in, sell tickets, spread out vendors, set up a texting order system for food, but they have to see if there's an appetite and resources to implement any of these ideas. Ms. Kerbacher said they didn't get to do fundraising, so what they have is it. Her concern is if it's all used up this year, they may not have enough to start next year or the fall for fundraising. She said if they do the fireworks, they already put the deposit down and the band isn't that expensive. They would still need to apply for the liquor license, but they haven't started anything yet. Mr. Becker asked if the fireworks company will move the deposit to next year. Mr. Gable and Mr. Tirrell said it's in the contract they would move it to next year. Mr. Becker said they had to cancel their truck and tractor pulls this year, and the insurance companies were forwarding the deposits to next year for them because it's not either of their faults. Mr. Gable said the Lions' Club is not going to be at Community Days. Mr. Tirrell said they would not be there to do the pig roast, but they offered assistance to do other things. Mr. Gable said they're worried about liability and insurance which is his concern for the township. If someone gets sick or someone dies, they'll sue the township. Mr. Piorkowski asked about having everybody sign a waiver in same way they sell a ticket. Mr. Gable said the way the Recreation Center is set up, it is very difficult to stop somebody from coming in. Mr. Piorkowski asked what phase is after the green phase when you can have gatherings of 500. Mr. Gable said he read the next phase would be the golden phase, and they'd lift all restrictions. Attorney Backenstoe said the Green phase is technically supposed to be 250 people, socially distanced by 6 ft, and in masks. If you're inside, 50% of the capacity of the facility with social distancing and masks. He said green isn't carte blanche. Mr. Shaffer asked about the liability. Attorney Backenstoe said it's tough to say, and it's a legitimate thing to consider if you're holding a function, and a person questions the socially distancing. He isn't sure if the township would have liability or not, and it could depend on a thousand different variables. He can't rule out the township wouldn't be liable. Mr.

Piorkowski said just like he can't rule out people using the fields now, and there's only five people up here and one's a carrier, and someone gets sick. He said there will be a lawsuit, but will we be liable. Attorney Backenstoe said less so in that situation because it isn't an event sponsored by the township. He isn't telling the Board to do it or not do it, it's up to the Board. Mr. Shaffer said his opinion is to do an in-car fireworks event. Ms. Kerbacher is concerned about how much funds they have to start fundraising for next year. Mr. Tirrell commented on Mr. Gable's point in which each field is considered an area for 250, so cars can park in different areas. Mr. Gable said yes and no, it depends how they decide on it. He said it's a complex. He noted the 250 includes the people working the event. Mr. Becker asked who determines it. Mr. Tirrell said Hershey Park opened and there's more than 250 there, so how can it be ok for one and not the other. Mr. Piorkowski asked what their liability was, and Mr. Tirrell didn't know. Attorney Backenstoe said the township needs to call the liability carrier. Mr. Shaffer said his thought was from the Iron Pigs in which they had over 250 people with Mr. Tirrell pointing out they did it in yellow when they were restricted to 25 people. Mr. Becker pointed to the drive-in theater that was shut down. Attorney Backenstoe said they were not shut down, they were given a warning, and they shut down on their own. They opened up the next weekend. Mr. Frey asked if the Community Days was for money or profit. Mr. Tirrell and Ms. Kerbacher said it's for the community, they don't make profit. Mr. Frey said they see restaurants and other places that don't have same numbers as other years. If they do hold it, the numbers are going to be less, so that's why he's looking at the profit. He's been noticing people are not showing up for functions. Mr. Jeff Ayers said everybody here is responsible, and the real problem is the irresponsible people who do not want to socially distance or wear a mask putting the police in an awkward situation to enforce social distancing. He loves the Community Days but thinks there's too many people who don't think they have to do anything in green phase. He doesn't want to see the police department or anybody here getting into a bad situation because they decided to have an event, and people decided to act irresponsibly. He said it's unfortunate, but he doesn't want to see the police in a situation where they have 50 people congregating and not doing what they're supposed to, and we need to ask police to disband them. Mr. Piorkowski said they will continue with guidance from Community Days. Mr. Tirrell and Ms. Kerbacher said there's a movie night Friday night. Mr. Tirrell said another option is to push it back another month and hope for the best. They would need to check with the vendors with Ms. Kerbacher noting they also have to check with the churches. He said they could maybe just do a band and fireworks.

ZONING AND BUILDING OFFICER

Mr. Harhart submitted his report and said other items will come up later in the agenda.

TOWNSHIP ENGINEER

Mr. Horvath said the PennDOT HOP was finally issued for the farm access. There are now two driveway accesses for the Schiavone property. He also checked in with the Bartholomew property engineer. They were not able to check in and sign the deed of dedication, so the resolution will have to be pushed back to the August meeting.

TOWNSHIP SOLICITOR

Maynard Campbell Request

Attorney Backenstoe said Mr. Maynard Campbell, a resident of the township and former supervisor, called multiple times in the beginning of the year with concerns about a drainage pipe or a pond overflow pipe for his property. Right at the time they spoke, COVID hit, and they've had several lean and clean agendas, so he didn't bring it up. Mr. Campbell called and said he wants it discussed with the regular meetings starting again. Attorney Backenstoe is disappointed he isn't here as he's the only one who can truly describe the concern he has, but he did his best to articulate his concerns. Mr. Campbell has a large pond with an overflow pipe that runs away from the pond toward the road. According to Mr. Campbell,

the discharge end of the overflow pipe becomes buried with rubble and sediment due to conditions caused by past realignment and widening of Creek Road by the township. Attorney Backenstoe asked him when this realignment occurred, and Mr. Campbell said 1967. They widened the road and promised his father they'd keep the pipe clean. Attorney Backenstoe told him it was a long time ago and asked for any written confirmation or documentation. Mr. Campbell said no, it was a handshake, and that's how his father relayed it to him. Attorney Backenstoe is envisioning a large pond that overflows at times and apparently runs under Creek Road. He doesn't know who put the pipe in, he doesn't know if Mr. Campbell put the pipe in, he doesn't know why it gets filled with debris, he doesn't understand the physics of what's going on thinking if water runs out of his pipe, he would think it just flows out. Mr. Campbell told Attorney Backenstoe because the road was changed so many years ago, it causes his pipe, which is on private property and not the township right of way as he understands it, to get filled with debris. The township for years cleaned it out and just recently stopped. Attorney Backenstoe said he doesn't know any of the history apart from what Mr. Campbell told him or the geography, typography, facts, and representations which is why he wished Mr. Campbell was here noting he was very upset when speaking with Attorney Backenstoe on the phone. Attorney Backenstoe asked if anybody has any idea about this. Mr. Campbell wants the township to clean it out, and the road crew told him they won't do it. Ms. Kerbacher said he put the pipe under the road when he was supervisor with Mr. Gable asking Mr. Fenstermaker if he put in a new pipe and extended it. Mr. Fenstermaker said it used to stop right at the edge of the pipe running across the road, and he extended it into the headwall he sat in. Mr. Becker asked Mr. Fenstermaker if he did this when he was supervisor and used township equipment, or did he do it on his own. Mr. Gable said he did it when he was a supervisor. Mr. Becker said they're saying the township extended it. Mr. Piorkowski said he did it when Mr. Louis Casciola took off because Mr. Casciola wouldn't let him do it. Mr. Gable said that is correct. Mr. Piorkowski said it was unauthorized except by himself. Attorney Backenstoe asked if he took township equipment on his own property and modified his personal situation. Mr. Piorkowski said that's what he's been told. Mr. Becker is asking that noting everybody said Mr. Campbell put the pipe in himself, but if he did it while road supervisor on township time, then it was done as a township project. Mr. Piorkowski said he's already threatened to take the Board to the Ethics Commission. Attorney Backenstoe asked for what. Mr. Piorkowski said for not cleaning the pipe he put in illegally. Attorney Backenstoe said that would be a tough argument to make. He wished Mr. Campbell was here as he was very upset each time they spoke. He promised him it would be on the agenda tonight, and Mr. Campbell could discuss it. Only he knows the true nature of what he's seeking. Ms. Kerbacher asked when was the last time the pipe was cleaned out. Mr. Fenstermaker said they cleaned the end of the township pipe. Attorney Backenstoe said if there's a township pipe in a township right of way they need to open and keep clean, that's imperative. Mr. Steiner said he spoke to him, and told him they would clean the right of way, but with no paperwork, information, or verification about the pipe ending further down the right of way, he told him they can't clean it. Attorney Backenstoe said you can't use township equipment and man power on private property noting as much as you'd like to sweep a church's parking lot because it has a lot of stone, you can't do it. Likewise, you can't go on a person's private property and fix their driveway because they're your uncle. The Second Class Township Code doesn't allow those things. He continued, there are situations where townships, cities, and boroughs modify a road and increase the grade and change water runoff causing a problem on somebody's private property. The township can and should rectify the problem because there is some liability. Mr. Becker asked if this pipe is connected to the section of pipe the township cleans out. Mr. Fenstermaker said the overflow pipe is underneath the township pipe. Mr. Becker asked confirmation it's a separate pipe. Mr. Fenstermaker said it is a separate pipe underneath the township's. Attorney Backenstoe asked what that means. Mr. Steiner said it looks like it runs parallel noting it runs underneath the road but is not connected to the township pipe. Attorney Backenstoe asked confirmation it wasn't the township's drainage pipe. Mr. Piorkowski said no. Mr. Piorkowski said he thought Mr. Campbell tried cleaning it out by himself and DEP came out. Ms. Kerbacher and Mr. Gable said he drained his pond. Mr.

Piorkowski thinks he is trying to push the problem off on the township and doesn't think it is their responsibility. Mr. Faustner asked if the debris came from his pond. Mr. Piorkowski said yes. Mr. Faustner said it sounds like a no brainer and Mr. Piorkowski agreed. Mr. Piorkowski said he thinks they're spinning their wheels noting he invited Mr. Campbell to come to numerous meetings and told him if he feels, he needs to file an ethics charge because the township is doing it for Mr. Gable, noting it's different. Attorney Backenstoe said it is entirely different. Mr. Piorkowski said he knows, but he's threatening Mr. Shaffer and himself to be taken to Ethics Commission. Attorney Backenstoe said they have a recorded easement agreement because the township needs to run water off on Mr. Gable's property. Mr. Becker said that is also the township pipe whereas Mr. Campbell's is not. Attorney Backenstoe said there is a big difference between putting in two township pipes and running the water onto someone's property and making a mess then having your own, private overflow pipe filled by your pond and asking someone to come clean it. Mr. Piorkowski said he would have a lot of explaining to the Ethics Commission himself. Attorney Backenstoe said he assumes there's no more discussion on this. He asked Mr. Horvath for more thoughts other than what has been discussed as he's seen it. Mr. Horvath said no, he has no basis other than the way he described it related to responsibilities for maintenance, but he can confirm from his evaluation the pipe he's referring to strictly serves the purpose of overflow and drainage for his pond. There is no public function to it. Whether it was disrupted by the realignment of the road fifty, sixty years ago, he can't say either way.

Fireworks

Mr. Gable and Mr. Shaffer asked Attorney Backenstoe to look at the current fireworks law and let them know what he thinks. Attorney Backenstoe brought an article from the Morning Call noting Moore Township is not alone, and they're a huge problem all over the state in particular the cities of Philadelphia, Pittsburgh, Allentown and Bethlehem. At one time, Pennsylvania had very limited fireworks. The fireworks stores were built along the state line because people from New Jersey could buy all kinds of fireworks, but Pennsylvania couldn't. He doesn't know anything about fireworks but wanted to see what it looked like. Several years ago, you would go to one of these places along the border, a huge warehouse, and you'd show them your license. If you were a Pennsylvania resident, you would go in one line which was very disappointing because it only had firecrackers and sparklers, and in the other line had fireworks that could light up the world. In 2017, the legislature enacted Act 43 which materially changed everything you knew about fireworks. They talk about consumer grade and professional displays. Consumer grade went from sparklers and black cat fireworks to roman candles and bottle rockets, 1.4 grain fireworks. Townships cannot regulate the sale, it is under state law. The state law regulates the use by not being able to discharge within 150 ft of an occupied structure, cannot ignite or discharge on private or public property without the owner's permission, cannot discharge within or towards a motor vehicle, and the person discharging the fireworks cannot be under the influence of alcohol. Townships can regulate the hours of operation noting Lehigh Township adopted an ordinance a year or two ago, and they tried to regulate based on the holiday. New Year's Eve can shoot them off until 1 am, 4th of July you can do it until 11 pm, and other holidays you can do it until 10 pm. Otherwise, you can't shoot them past 9 pm. While that is not a lot, it helped the problem. He attached a copy of an ordinance adopted in Doylestown which restricts in this way. People are allowed to buy them. Townships, cities, and boroughs can't stop them, and at best, the township can regulate the hours. For professional displays, on the other hand, which are 130 mg explosions, you're required to post a million-dollar bond and get a permit. That is still allowed and the Township has an ordinance in place. If someone is to shoot off a display, you need a licensed fireworks technician, it has to be inspected, and you have to post a bond with the township. Interestingly, there is proposed legislation allowing certain municipal entities to control this more, but it's only going to be for larger cities like Pittsburgh, Philadelphia, Allentown, and Bethlehem which doesn't help Moore Township. He thinks the best they can do is put together an ordinance that limits the hours these can be set off. Mr. Ayers asked if there's

anything about age. Attorney Backenstoe said he thinks a person has to be 18. Mr. Ayers said once they're out of the store, juveniles are running around setting off fireworks. He wasn't sure if that could be addressed at an ordinance level, and Attorney Backenstoe said he could take a look at that. Mr. Ayers provided an example of a father buying from the store and giving them to their kid to set them off. Mr. Becker said the law says it has to be 150 ft from occupied buildings now. He asked Chief West if they go out and investigate the 150 ft. Chief West said so far, the problem has been they get there and there's nothing being shot off. A lot of people still use scanners and know they're coming, so they stop the activity. They wait to see if they get shot off again. Mr. Becker said if officers are on patrol, they should see this before a call would come in. Chief West said yes. They see it, but they're not going to it unless they get a complaint because there's no law against shooting them off. Mr. Becker sees the biggest issue is the debris noting all the debris you find the next morning on your roof. Mr. Piorkowski said they can table it until they see the COG letter and see if the state takes further action noting the fourth of July is over. Mr. Tirrell thinks it was worse this year with all that's happened with Mr. Piorkowski noting people might be using it to let go frustration with some of the regulations going on. Mr. Frey asked if anybody knows how much money the state receives from it. Mr. Tirrell said it's 18% on top of the sales tax. Mr. Frey heard it was for school funding. Mr. Steiner said instead of increasing sales or income tax, they expanded sales of fireworks while building in grants for fire companies arguing they're also looking out for safety. Mr. Frey said it will be difficult to go back on this because it's making good money for some areas that need it. Mr. Faustner said they should put it on the ballot because the township will get a lot of pros and cons. Attorney Backenstoe said that's an interesting suggestion and one people bring up about a lot of issues. Unfortunately, items can't be placed on the ballot unless it's specifically authorized by statute. For instance, open space. He said it's called referendum law in Pennsylvania. Mr. Faustner said you don't have enough complaints, so why even talk about it. Mr. Piorkowski asked Chief West if between now and the next meeting if they can write down the number of complaints. He asked if he could keep track of complaints from now until then. If they're saying it's because of the release process, the problem might wean itself off. Chief West said it wasn't bad at all last year. Mr. Faustner said last year he was shooting and two police officers came to his house because they received a complaint. He asked how he can find out who filed that complaint. Chief West said that's generally something they won't release because they don't want a neighbor dispute to erupt out of that. Mr. Faustner asked why two officers were coming up there. Chief West said to investigate where the shooting was coming from. He asked what the officers did when they discovered it was him and what he was doing was completely legal. Mr. Faustner said next time he shoots, he hopes nobody comes up his driveway because he's putting a rifle range up there. Mr. Ayers asked when they impose a burning ban because it's really dry, is there something specifically in there about fireworks because that is a concern with some of the people he spoke to. If there's a burning ban in place, is there something in that law to address fireworks because they're not supposed to have open fires. Mr. Piorkowski said he doesn't think that's something the Board can answer unless they look up the ordinance. Mr. Ayers thinks that's something worthwhile to look into because people may shoot off fireworks and end up with fields on fire. Mr. Tirrell asked Mr. Harhart if they had any issues with fires. Mr. Harhart said not this year related to fireworks. They had some in the past, but not this year. Mr. Piorkowski asked Mr. Harhart to research that with the fire department, and Mr. Harhart said he could.

RESOLUTIONS & ORDINANCES

TOWNSHIP MANAGER

Mr. Steiner said most of his items are under old and new business.

OLD BUSINESS

Disaster Declaration

Mr. Steiner submitted their first grant application to recover some of the costs incurred with regard to the disaster. They are submitting on behalf of the township and fire department with the minimum amount to be submitted being \$3,100. The grant application was for, he thinks, \$13,000. He isn't a hundred percent sure because they can submit multiple applications as additional costs are incurred. He will be submitting at least one other application after this.

Mr. Steiner said the disaster declaration was extended until tonight and assumed they would want to extend it. As said in the past, he's heard from other people it could impact their funding, but he's also heard it won't impact their funding. It's keeping the township aware they are still in this disaster declaration. Mr. Shaffer asked if they could extend the disaster declaration until the state declaration is complete. Mr. Piorkowski said they could do it for 30 days or month to month. Mr. Steiner asked Attorney Backenstoe if they could extend it until the end of the state declared disaster. Attorney Backenstoe said yes, he believes so.

Mr. Shaffer made a motion to extend the disaster declaration until the state ends their disaster declaration

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Schiavone Farm

Mr. Steiner said the combine was removed from the field. Mr. Piorkowski, Mr. Shaffer, Attorney Backenstoe, and Mr. Steiner met with the farmer and Mr. Ryan Shaw of county Farmland Preservation to discuss the access, combine issue, and ag erosion issues. The township still needs to hear from Mr. Jim Clauser as far as the plan for resolving the erosion issue. As Mr. Horvath said previously, they received the HOP for the farm access and Public Works will need to make sure it is installed according to the permit.

Moore Estates

Attorney Backenstoe said he was told to hold off on the Agreements of Sale until they got all the outstanding bills to be divided between potential purchasers. That would then be incorporated into the sales price. Mr. Steiner thinks the plans need to be recorded after Mr. Steiner and Mr. Piorkowski signs and notarizes. Mr. Backenstoe said otherwise the drafts of the agreements of sale are all done.

Pavilion Rental

Mr. Steiner said they had their first pavilion rental last weekend. He wanted to confirm the Board doesn't have any restrictions as the pavilion can't hold 250 people. He also had Mr. Glen Butz of Moore Soccer ask if the Blue Mountain League could hold a meeting at the pavilion on Thursday. For Lions or MTAA, they don't charge as they're a Moore Township organization, and MTAA pays the township back through commission income. For the Blue Mountain League, he wasn't sure if they should be charged a regular rental fee or should ask for a donation since they aren't directly affiliated but still have Moore Township sports involved in the league. He wanted to know what the Board thinks as far as a full rental price or reduced rate. Mr. Shaffer and Mr. Piorkowski said they don't see a problem with a donation as they're only meeting one night for a couple hours. Mr. Gable said it makes sense to him too. Mr. Piorkowski said if they're still moving ahead with pavilion rentals, should they also sign a waiver the township takes no liability for them getting sick for using the facility. Mr. Steiner said they could draft another waiver, and he'd have to go back to the people who rented and have them sign. He asked Attorney Backenstoe if he could help draft it, and Attorney Backenstoe said he would work on it with him. Mr. Shaffer asked if everybody at the event needs to sign. Mr. Piorkowski said no, just the host or whoever is renting it. Mr. Shaffer asked Attorney Backenstoe if that would hold up. Attorney Backenstoe said as well as you can.

It would be nice if it said the township expects they will recognize social distancing and wearing masks, and they expect as a condition of granting the permit they are going to require those things be in place.

NEW BUSINESS

Schiavone Park Pond Fish Stocking

Mr. Shaffer said they got the catch and release signs at Schiavone Park up a little late a year or two ago. He's been down there the last several months talking to people, and he fished it once. There isn't much fish in the ponds from what he's hearing and understanding. He got a price from Big Brown Hatchery to stock 100 largemouth bass in the 10-12" size group with the delivery at \$1,347.20. This would be considered a maintenance or improvement of the park, so it can be paid through EIT fund.

Mr. Piorkowski made a motion to buy 100 fish to put in the pond from Big Brown Hatchery for \$1,347.20

Mr. Gable seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

CORRESPONDENCE/MEMOS

Mr. Piorkowski said they received a letter from Ms. Kim Talipan, a voting member of the Zoning Hearing Board (ZHB) who is looking to become an alternate. They also have the alternate who is willing to take the permanent. Attorney Backenstoe said they would need to accept the voting member's resignation so there's a vacancy, and then they can fill the vacancy with the request. Mr. Ayers said Ms. Talipan would still like to stay on as an alternate, and Mr. Jeff Delogolos would be placed on the board as a regular member. Ms. Kerbacher asked if he would take her term. Attorney Backenstoe said yes.

Mr. Gable made a motion to accept the resignation of Kimberly Talipan from the Zoning Hearing Board and to install her as an alternate

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Piorkowski said they have a letter from Mr. Jeffery Delogolos who is interested in being a voting member of the board as he's been an alternate.

Mr. Gable made a motion to install Jeffery Delogolos as a full member of the Zoning Hearing Board

Mr. Shaffer seconded the motion

Public comment

None

Motion carried with all Supervisors present voting aye

Mr. Piorkowski said they received a letter from Mr. Delogolos noting he would refrain from voting on anything that would be a conflict of interest. Mr. Steiner said a few months back, Attorney Backenstoe wrote a letter on behalf of Mr. Delogolos for Key Bank, and Key Bank wrote a reply back. Mr. Piorkowski said they also received a letter from Northampton Area Public Library for the township's contribution. He said Mr. Steiner is sending a memorandum to the Public Works Department advising them of the Pennsylvania state statute for smoking in workplace areas. Mr. Steiner said it's been a

continuing problem. It tells them they can't smoke in buildings and should smoke behind the building and away from the buildings even though that isn't law.

OPEN TO THE FLOOR

Mr. Faustner said he came out his driveway two days ago, and they were filling potholes with blacktop. He said today he came out and chip and tar was put down. Maybe the township can put something on the website where the work is going to be done so people know what's going on. He tried to come around Skunk Road through Smith Gap, and they parked all the trucks on Skunk Road, so he had to back up again. Mr. Steiner said he would keep that in mind for the future with regard to the big projects noting they call us when they're available. The township was told the end of last week they were coming Tuesday. Mr. Faustner asked when they did the patching of potholes. Mr. Fenstermaker said Monday, a week prior. Mr. Steiner said he would try to be more diligent in the future noting he was trying to think of best way to reach out whether it's the website or Facebook notifying the tar and chipping is starting this day and could last this long. Mr. Faustner spoke to some people on Mountain Road who were angry, and Mr. Steiner said they were basically surrounded. He said he'd keep it in mind for the future.

ADJOURNMENT

Mr. Shaffer made a motion adjourn the meeting at 8:54 PM

Mr. Gable seconded the motion

Public comments

None

Motion carried with all Supervisors present voting aye

Respectfully submitted

Nicholas C. Steiner
Township Manager

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