

**MINUTES**

The Moon Township Board of Supervisors, Allegheny County, met in regular session at the Moon Township Municipal Building, 1000 Beaver Grade Road, Moon Township, PA 15108.

The meeting was called to order at 7:00 p.m. with the Pledge of Allegiance to the Flag, Chairman Tim McLaughlin presiding. Supervisors present: Mr. McLaughlin, Mr. Vitale, Mr. Eicher and Mr. Gribben.

**PUBLIC COMMENTS ON AGENDA ACTION ITEMS:**

(There were none.)

**APPROVAL OF MINUTES:**

**Action Item**—Approval of the minutes of the Workshop Meeting of May 26 and Regular Meeting of June 2, 2010, which were distributed to the Board of Supervisors for their approval. Motion made by Mr. Eicher, seconded by Mr. Gribben. All Supervisors voting yes, motion carried.

Reports as they were received will be available for public review for 24 hours at the Township Office. They include:

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|--|-----------------------------------|
| a. Animal Control                        | j. Moon Transportation Authority  |
| b. Building Permits                      | k. Moon Twp. Municipal Authority  |
| c. CATV Advisory Board                   | l. Moon Twp. Public Library       |
| d. Deed Transfer                         | m. Moon Twp. Recreation Authority |
| e. EMS Tax                               | n. Parks & Recreation Dept.       |
| f. Environmental Advisory Council        | o. Planning Commission            |
| g. Fire Department                       | p. Police Department              |
| h. H.A.R.B. Board                        | q. Road Department                |
| i. Moon Industrial Development Authority | r. Valley Ambulance Authority     |
|  | s. List of bills to be paid       |

**ANNOUNCEMENTS:**

- A. **Recognition** – A Patriot Award was presented to Moon Township from the Employer Support of the Guard and Reserve (ESGR) by representatives Gordon McKay, Kathy Robinett and Rochelle Stachel. Accepting the award was Parks & Recreation Director Dana Kasler and Parks Department employee Vicki Jones. The Parks Department was nominated for this award by Parks Department employee Kevin Lovely who is serving on active duty in the National Guard. Mr. McLaughlin said that we are proud of the employees we have. We are proud not only of our employee but also some of our residents who are serving our country. We take pride in supporting our employees who are overseas protecting our freedom.
- B. Mr. McLaughlin recognized Eagle Scouts Alex J. Gilbert and William Mann of Boy Scout Troop 905 and read a proclamation recognizing their achievement.

Mr. McLaughlin read a press release from the Moon Township Municipal Authority stating that their customers are not being affected by the water problems that the Coraopolis Water and Sewer Authority customers have experienced today. MTMA customers can use their water as they normally do.

C. Mr. McLaughlin advised citizens that MCA-TV will present its third annual Film Festival during a live television event on Saturday, July 17, and Sunday, July 18. Tune in to Comcast channel 14 or Verizon channel 35 to view locally-produced films spanning a range of genres and styles. Visit [www.mca-tv.com](http://www.mca-tv.com) for more information.

D. Mr. McLaughlin advised citizens that Keystone Municipal Collections will have representatives available in the Moon Township Municipal Building on Friday, July 30, 2010 between the hours of 9:00 a.m. to noon and 1:00 to 4:00 p.m.

E. **Presentation:** Sharon Road Traffic Calming Evaluation

Mr. Bob Goetz of Trans Associates gave a follow-up update on the traffic calming devices that were installed in 2009 following a petition from the residents of Sharon Road. He explained how the study and data collection took place in 2008 prior to the installation of the traffic calming devices. Traffic data was again collected this May to analyze the effectiveness of the traffic calming devices to see if they are doing their job. Based on the latest data the answer is yes. Speeds and volumes have been decreased. The four humps seem to be doing their job. Traffic crash data was not taken into consideration but it can be looked into. Mr. McGurk said that, as discussed at the last workshop meeting, we would like to schedule a follow-up meeting with the residents in the Sharon Road area to discuss these traffic-calming devices.

F. **Presentation:** LaRue Drive Intersection Evaluations

Mr. Goetz of Trans Associates said that the second study undertaken was Larue Drive on the section between Old Thorn Run Road and Laura Lee Drive toward the elementary school. There were several concerns expressed by the residents. One concern is the speed of vehicles on Larue Drive and pedestrian safety. There are no sidewalks there, it is a Port Authority bus route and is used by school buses going back to the elementary school. Trans looked at the intersections of Larue Drive with Pine Drive and Laura Lee Drive. There is currently no traffic control at Laura Lee Drive at Larue Drive. The Pine Drive intersection sits at the bottom of two steep grades. They evaluated speeds, volumes and sight distances at these intersections. We have to meet criteria to install all-way stop signs and this criteria is not met at Pine Drive. In lieu of that, since it is a school bus stop, he is recommending a "School Bus Stop Ahead" sign be posted coming down the grade. That is all the recommendation he is making so far as traffic control is concerned. Because of the grades on Larue Drive speed humps cannot be installed. If speeds do not go down, a different type of traffic calming may need to be explored. He is recommending a stop sign on Laura Lee Drive. Mr. David Barchie of 244 Larue Drive, who is the resident who initiated the petition, said that the stop sign will not help curb the speeding problem. Larue Drive only has one hill and it is not greater than Sharon Road where the speed humps are working. The whole neighborhood told the Board by signing the petition that there is a problem. The stop sign is going to help but it is not the answer. With the number of cars going to the elementary school for sports activities, the number and speed of cars will certainly go up.

The residents are asking the Board for help. He asked that the Board please reconsider speed humps on this road. Mr. Goetz said that there may be some other type of traffic calming that can be considered. Mr. McLaughlin said that we will look at it further.

**NEW BUSINESS:**

A. ***Public Hearing:*** 1521 Coraopolis Heights Road Rezoning

Mr. McLaughlin opened the public hearing regarding the rezoning request of 1521 Coraopolis Heights Road. Those wishing to give public testimony were sworn in by the court reporter. Mr. McLaughlin called for a motion to table the rezoning request public hearing until the August 4, 2010 regular meeting of the Board of Supervisors. Motion made by Mr. Eicher, seconded by Mr. Vitale. All Supervisors present voting yes, motion carried 4-0. Mr. Jonathan Kamin said that he is here on behalf of the applicant, the owner of 1521 Coraopolis Heights Road. It was at the applicant's request that the Board tabled this motion. They appreciate the Board's tabling it. Mr. McLaughlin called for a motion to close the public hearing. Motion made by Mr. Gribben, seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 4-0.

B. ***Action Item*** – Mr. McLaughlin called for a motion to approve a banner sign to be erected across Beaver Grade Road and adopt Resolution R-15-2010 accordingly, conditional upon the Rotary Club's compliance with all PennDOT requirements and an indemnification in a form acceptable to the Township Solicitor. Motion made by Mr. Vitale, seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 4-0.

C. ***Action Item*** – Mr. McLaughlin called for a motion to approve/deny the Cora Mae Burke Plan of Lots, subject to the Township Planning Department's review letter dated June 8, 2010, as recommended by the Planning Commission. On behalf of the applicant, Patricia Behrend said that she is in attendance representing the estate of Cora Mae Burke. The property extends from Montour Street Extension to Rosedale Avenue. The executrix of the estate wishes to subdivide the property and sell a portion of the property. On Montour Street Extension there is a section of an old driveway that was used by the estate many years ago and used by the other property owner. We are also going to take that portion of the driveway that still exists on Lot 2 and deed it over to the owner at 2020 Montour Street Extension. Mr. McGurk said that the other lot has access from Rosedale Avenue. That lot actually becomes a non-conforming lot as it will not have the required frontage on a public road. The applicant did seek a variance for that and was approved by the Zoning Hearing Board last month. The Planning Commission recommended approval at their last meeting. A motion for approval was made by Mr. Vitale, seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 4-0.

D. ***Action Item*** – Mr. McLaughlin called for a motion to approve/deny the combined preliminary/final major land development plan application for the proposed Kenny Ross Toyota Dealership, subject to the Township Planning Department's review letter dated June 23, 2010, as recommended by the Planning Commission. Attorney Jonathan Kamin said that he is here representing the applicant. Accompanying him is Pat Cooper of Gateway Engineers and Tony Ross. Mr. Kamin said that this plan is similar to the plan that the Board saw last month where they requested and received several deviations from the University Boulevard overlay district. They have implemented those deviations

into their site plan and are here for site plan approval this evening. It is the first Image 2 Flagship dealership to be located in western Pennsylvania. It is Toyota's highest product and top-of-the-line dealership. The dealership size has been expanded. Right now, they employ about 65 employees; the projected employment at the new dealership will be approximately 120. They are happy to bring those jobs to Moon Township. The dealership and its design have been designed in such a way to be as green as possible. The major difference between this particular site plan and the one approved by the Board several years ago is that they have added the Wampler piece to their development. Mr. Cooper showed the old approved plan and the new site plan being proposed. He discussed the deviation requests for this development. They are pleased to be able to bring the dealership here. Mr. Cooper explained the redesign of the site. The acquisition of the Wampler piece allowed them to move the building closer to University Boulevard. It was one of the deviations that were approved. It will be more in compliance with the University Boulevard requirements. That is the predominant change; the rest is basically the same as approved several years ago. They have addressed the comments from the Township engineer and Township staff. One of the areas studied was how tractor trailers would move on and off the site. With the acquisition of the Wampler piece they hope to get all tractor trailers in and around the site via Port Authority Drive. However, with the software programs available, we won't know if this movement will work for sure until after the site is completed. They are sure that the trucks will be able to exit the site onto Port Authority Drive, but are not totally certain that they can enter from Port Authority Drive. It is their desire to make that the entrance and exit for the trailers, but they must reserve the right to enter from University Boulevard. Mr. Kamin said that prior to their acquiring the Wampler piece, all ingress and egress was from University Boulevard and was approved. One of the benefits of moving the building up is that they will have all of the loading and unloading of tractor trailers, regardless of where they come in, behind their building.

Mr. McLaughlin asked about the panels that will be used on the exterior of the building. Mr. Kamin showed a schematic of the building. The panels are not prefabricated metal panels which are discouraged under the University Boulevard overlay district. They are what is termed as "alucobond" panels which are recycled aluminum/polymer panels. He explained why these panels are important to them. He explained where the illuminated opaque glass will be on the building, above the clear glass. They, therefore, meet the requirements for transparency along the pedestrian level. Mr. Eicher questioned whether the alucobond panels are, in fact, metal. He asked Mr. Kamin to bring in a sample for the Board to look at. His second concern is about truck access from University Boulevard, both northbound and southbound. He knows that our traffic engineer raised the same question. You are also required to show us elevation drawings. He is sitting here being asked to approve a plan on which he does not have sufficient information. Our ordinance requires that we do not want just flat roofs. We require certain things around the front of the building. While they have designed something like that, it does not meet the requirements of this district. These are four fatal flaws in the plan. He believes they need to go back and address all of those concerns with the engineers and then come back to the Board with a plan that meets the overlay district for approval. Mr. Kamin explained where he feels they have met the ordinance requirements per Mr. Eicher's concerns. Regarding the panels, what they are proposing is no different than what was approved three years ago. Regarding the turning movements, they are concerned about safety as well. There is nothing in the ordinance that prohibits turning movements across University Boulevard. It is done by the other

dealers and businesses along University Boulevard. They would like all of the truck traffic to come in and out at the signalized intersection. They are going to do their best to make that happen. But they are unable to tell whether that can be done until such point as the building is constructed. Mr. Eicher again questioned Mr. Kamin about details of the plan. Mr. Kamin said that they have done their best to comply with all of the University Boulevard requirements. His firm represents several municipalities and he is solicitor for some. He does not think that this municipality has the ability to regulate colors or tones. What you are trying to establish by the overlay district is a high-end commercial district that people want to service and patronize. Mr. Eicher said that Mr. Kamin's comment regarding color is probably right. But his vote tonight is based on looking at the ordinance and making a simple judgment. He hopes that the other Board members are listening to his concerns or that Mr. Kamin would be willing to go back and do a little more homework and then come back before the Board next month and look at all the concerns he has raised. He encouraged Mr. Kamin to request that the Board not take a vote tonight and come back next month. Mr. McGurk said that there are review letters on this project from himself, the Township engineer and the Township traffic engineer. There are still outstanding comments. A lot of the building issues that Mr. Eicher has brought up are contained in the letters. As Mr. Eicher said, the elevation drawings that we got were black-and-white that could not confirm a lot of the requirements of the overlay district ordinance. If the Board wants the applicant to come back next month and they are willing to do so, he thinks that is a good idea.

Mr. Goetz said that Trans Associates reviewed the plan and saw what Mr. Cooper has presented. He explained what could be done to accommodate the car carriers. Mr. Cooper said that they will soon be getting their H.O.P. from PennDOT. Mr. Kamin said that they want the Board to be comfortable with what the Board is approving. If it is the pleasure of the Board that they go back, supply the Board with better renderings and discuss this further with staff they would be willing to do so. Mr. McLaughlin said that he would like to see a large sample of the alucobond. Mr. Kamin said that he would be happy to provide that. They are willing to consent to this item being tabled until the August meeting. Mr. McGurk requested that the applicant sign the proper paperwork to extend the deadline; Mr. Kamin said that he would do so.

Mr. McLaughlin called for a motion to table the combined preliminary/final major land development plan application for the proposed Kenny Ross Toyota Dealership, subject to the Township Planning Department's review letter dated June 23, 2010, as recommended by the Planning Commission. Motion made by Mr. Eicher, with the time extension granted by the applicant. Mr. Kamin said that so the record is clear, they are granting the time extension tonight. The motion was seconded by Mr. Vitale. All Supervisors present voting yes, motion carried 4-0.

Mr. McLaughlin said that this indicates that we want to work with our developers so that we are comfortable and they are comfortable. He thanked Mr. Ross for bringing jobs to Moon Township.

- E. **Action Item** – Mr. McLaughlin called for a motion to approve/deny the Kleynjans Plan of Consolidation, subject to the Township Planning Department's review letter dated June 18, 2010. Mr. McGurk said that this is a simple subdivision that consolidates two lots. Being a simple subdivision it did not require Planning Commission review. It goes right to the Board of Supervisors. No new lots are being created; they are just changing existing

property boundaries. There are a few administrative items that need addressed before the plan is recorded. There are no outstanding design items. Motion to approve made by Mr. Gribben, seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 4-0.

- F. **Action Item** – Mr. McLaughlin called for a motion to approve/deny the Lamar Bus Shelter site location evaluation proposal dated June 28, 2010, as submitted by the Township Engineer. Motion to approve made by Mr. Vitale, seconded by Mr. Gribben. All Supervisors present voting yes, motion carried 4-0.

Mr. McLaughlin stated that the Board will take a five minute recess. Mr. Sinatra will be calling in from his vacation.

- G. **Wal-Mart Supercenter:**

**Public Hearing:** Wal-Mart Supercenter Conditional Use Applications

**[NOTE: Mr. Sinatra joined the meeting via teleconferencing at 9:38 p.m.]**

Mr. McLaughlin asked everyone in attendance to be respectful of others' opinions and not comment from the audience. Everyone will have an opportunity to speak. We will limit the comments from the residents to three minutes. He asked that comments not be repeated as he would like to get through all of this tonight. He would like to keep things orderly. He opened the public hearing on the Wal-Mart Supercenter conditional use applications.

Those wishing to give testimony were sworn in by the court reporter.

On behalf of their client (Wal-Mart) Dusty Elias-Kirk of the law firm of Reed Smith made an opening statement. Accompanying her this evening are her associates Jeff Wilhelm and Alan Sable. Also in attendance is Rick Celender and Steve Donaldson of CEC and Chuck Wooster of Wooster & Associates. She read an opening statement and proceeded with the presentation of evidence. A brief recess was taken for consultation with the Township solicitor, following which the public hearing resumed.

Comments/questions from the Supervisors were taken. Comments from the public were taken on the waivers and conditional uses only. Following the public comments, Mr. McLaughlin called for a motion to close the public hearing. Motion made by Mr. Eicher, seconded by Mr. Gribben. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the conditional use application for the proposed Wal-Mart Supercenter, which would relocate the required street trees within the public right of way, subject to the Township Planning Department's review letter dated June 10, 2010, as recommended by the Planning Commission. Motion to approve made by Mr. Eicher, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the conditional use application for the proposed Wal-Mart Supercenter, which would increase the 85 foot maximum front yard setback to 199 feet along University Boulevard and 619 feet along Brodhead Road, subject to the Township Planning Department's review letter dated

June 10, 2010, as recommended by the Planning Commission. Motion to approve made by Mr. Vitale, seconded by Mr. Sinatra. Mr. Eicher said that he believes to develop this total parcel, there needs to be a conditional use for the setback. He believes that, under oath, their engineer has stated that the minimum that they can live with is 199' from University Boulevard and 619' from Brodhead Road. He will take that as given under oath, as being accurate. He believes that passing this probably is contradictory to the plans, but he cannot make that judgment that it is. Based on the fact that he believes that to develop it you need a conditional use, although he is not sure that the ordinance says what the engineer and attorney say that it says, he will vote in favor of it. But he really questions what was said under oath and whether it was accurate. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the conditional use application for the proposed Wal-Mart Supercenter, which would permit an alternate sidewalk plan along University Boulevard, subject to the Township Planning Department's review letter dated June 10, 2010, as recommended by the Planning Commission. Motion to deny made by Mr. Vitale, seconded by Mr. Gribben. Mr. McLaughlin said that he believes that Wal-Mart understands that we want a sidewalk. Whether the wall is feasible in their eyes or not, it is what we are looking for. We are not looking for a fee; we are looking for a sidewalk. All Supervisors voting yes, motion to deny is carried.

Mr. Behend said that if the Board has denied the sidewalk waiver variance, the entire plan is based on that as well as the traffic impact study and everything else, would you be better at this point in deferring until they come back with the revised variation and whatever impact that has on the traffic impact study because that has changed the pedestrian flow and everything. You are now going to be voting on a supercenter proposal that does not match what you have just made a decision on. Mr. Santicola said that we will take that under advisement. All they have asked for is a conditional use and that has been denied. They have to comply with the ordinance as it stands. Mr. McGurk said that is contained in all his letters with respect to that.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow storm sewers to be constructed at a grade less than one percent in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Eicher, seconded by Mr. Gribben. Mr. McLaughlin asked Mr. Petroccia if he is fine with this. Mr. Petroccia said that he was. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow manholes to be constructed at a depth greater than fifteen feet below finished grade in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Eicher, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow inlets to be constructed at a depth greater than seven feet below finished grade in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Vitale, seconded by Mr. Eicher. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow the use of the proposed North American Green matting in the proposed detention facility emergency spillway in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Eicher, seconded by Mr. Gribben. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow storm sewers to have a drop connection from the invert of the outflow pipe to the invert of the inflow pipe to exceed two feet in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Vitale, seconded by Mr. Gribben. All Supervisors voting yes, motion carried.

**Action Item** – Mr. McLaughlin called for a motion to approve/deny the modification request for the proposed Wal-Mart Supercenter to allow a permanent micro-pool in the project detention basin, in order to meet the Pennsylvania Department of Environmental Protection water quality requirements, in a manner acceptable to the Township Engineer. Motion to approve made by Mr. Eicher, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.

Mr. Eicher said that this is the point where the Traffic Impact Study (T.I.S.) should come in. Mr. Santicola said that is correct. At this point in time, he would assume that Wal-Mart would like to move into evidence the documents they have given us today, the letters, exhibits and reports. We can do that all at once. The Wal-Mart representatives said that was correct. Mr. Wilhelm said that the Township also has the Power Point presentation and the other charts. Ms. Elias-Kirk said that there is also the response letter from CEC which was sent to the engineers today, July 7, 2010. Mr. Santicola said that we will make that part of the record.

The Board took a brief five minute recess.

**[NOTE: The connection with Mr. Sinatra was severed. It is not known at what point this disconnection occurred.]**

Mr. Wilhelm said that they have provided some testimony that goes more to the site plan. The landscaping would be more of a site plan issue/land development plan issue. They are now going to talk about it in their presentation, briefly touch on traffic and briefly touch on the building itself. He wants to make sure that the Board will take notice of the testimony that has already been given in these proceedings and the exhibits.

Mr. Eicher said that he has six questions that one way or another pertain to the building and the site. He asked if it would be most appropriate for him to ask those questions now or later. Mr. Wilhelm said that they are going to make a short presentation after which Mr. Eicher can ask his questions or in conjunction with the presentation.

Mr. Celender said that they have presented the existing conditions and gone through the site and showed the changes. He does not want to go through that again so they will move on to the traffic impact study and road improvements. Chuck Wooster from David E. Wooster followed by the architect from Scott Klemple approached the Board.

Mr. Wilhelm asked Mr. Wooster to state for the Board his qualifications. Mr. Wooster said that he is a registered professional engineer in the Commonwealth of Pennsylvania. He has 27 years of experience in traffic engineering and owner of David E. Wooster & Associates. Wooster & Associates has been retained to prepare the traffic impact analysis for the proposed development consistent with both the criteria of Moon Township and the Pennsylvania Department of Transportation. We scoped that meeting mutually between Moon Township, the Department of Transportation, ourselves and developed a scope of study; prepared that study; submitted that study; have received comments from both the Department of Transportation and Moon Township's retained traffic engineering consultant. We have responded to all of those comments satisfactorily. There is a June 23 letter that they have received a copy of that in the end identifies that we have addressed all comments with the exception of one section of one comment that he can address. Inherent in the response though is somewhat of the answer. It had to do with Comment No. 16 dealing with the length of the northbound left turn lane on University Boulevard at Brodhead Road. The Department of Transportation criteria for determining the length of that turn lane is to simulate it using traffic engineering simulation software and take the average of five of those simulations, taking what is referred to as the 95<sup>th</sup> percentile queue length of a turn lane—taking the average of five runs—to determine the length of the turn lane. They have done that. That length in those five runs was 625 feet. One of the comments was, if you redesign the left turn lane or taper it somewhat, you can extend the left turn lane by another 75 feet which they have done. Their comment was that the consultant still needs to provide a revised analysis to show ways to reduce this queue—noting that your consultant indicated that some of the queues of those five exceed the average (which inherently something has to, as we are using the average, not the highest one). The department recognizes that there is something that will go outside that realm so you use the average of that 95<sup>th</sup> percentile queue. They have attempted to do some analyses adjusting those splits three times but it has the same results. The average length went down, but the highest one went up slightly. They have summarized this in some correspondence which they will forward to the Township. Mr. Eicher asked, for the record, if Mr. Wooster could tell us what the highest is. Mr. Wooster said that the high in their traffic study is 796 feet and the low was 464 feet. Mr. Eicher said that, based on the simulation, what Mr. Wooster is saying that at some point in time, you could see a 796 foot queue. Mr. Wooster said that, based on the simulation given a certain set of conditions the model depicted is 796-foot queue in a 95<sup>th</sup> percentile. Mr. Eicher said that you could potentially see 796 feet; your model says you could. Mr. Wooster said yes. The Department of Transportation's criteria is that you take the average of the five, which they have done to satisfy that. They have modified the plan to include that we can extend it another 75 feet up to 700 feet instead of 625 feet and they can comply with that. They will provide the additional analysis that will show that you can't do much other than that and they have clarified that they committed to perform an after-study to look at actual volumes when we are finished to look at actual timings and modify timings where necessary.

Ms. Elias-Kirk asked Mr. Wooster to explain the improvements. Mr. Wooster said that we have a slide presentation showing four plans. The first shows the improvements proposed to accommodate traffic on Brodhead Road. The top of the plan shows the left side of the plan, its intersection with University Boulevard as it extends back toward the site driveway. There is a cutline in the bottom that shows the remainder as it heads over toward Colony West Drive. Those are showing the lane arrangements, the length of the turn lanes necessary consistent with the results of our traffic impact analysis. Mr.

McLaughlin said that he had a question. He asked how big the scope for the traffic is. He asked how far up University Boulevard and how far down Brodhead Road it extends. Mr. Wooster said that the study went from Moon Clinton Road to Robert Morris University on University Boulevard. It also went from Sharon Road to Colony West.

Mr. Wooster said that the next plan is the beginning of the turn lane that is proposed starting from just north of Moon Clinton Road. This is the widening that is necessary to accommodate the northbound left turn lane at the site drive. He noted that Carnot Road is going to be improved to Township standards from this intersection down to Beaver Grade Road.

The next plan, because of the timing that it was prepared, depicts to the eastern side and shows a bulb-out island that was made by the Township's consultant, agreed to by us. It is not depicted on the plan but will be a part of the final highway occupancy permit application drawings. That is where it could be lengthened that extra 75 feet. He showed the turn lane northbound. The third plan is heading down toward Brodhead Road. The fourth plan depicts the intersection of University Boulevard and Brodhead Road/Beaver Grade Road and the improvements on Beaver Grade Road. They were asked, as part of the comments, to putting in two distinct left turn lanes—one westbound onto Carnot Road and one westbound onto University Boulevard. That has been accommodated and they verified the lengths of turn lanes being adequate to the satisfaction of the Township traffic engineer. The bulb-out has been incorporated into the comment letter dated June 23 as being addressed. The plans being shown are graphic representations; they are not the design plans. They will be incorporated into the design plans. Mr. Eicher said that he has not reviewed it and wanted to know why he had not had an opportunity to review it and Mr. Wooster is telling him that it was never presented to us. Mr. Wooster said that was correct. Those are the improvements and he is ready to answer any questions.

Mr. McLaughlin asked Mr. Wooster to go over the improvements that will be made to Carnot Road. Mr. Wooster said that it is going to be rebuilt to Township standards. It will be widened to Township standards but not widened to add extra lanes. It did not need additional capacity. Mr. McLaughlin asked Mr. McGurk how wide they can take Carnot Road with the wall that is there. Mr. McGurk said that it is pretty close to Township standards now with regard to width. It will be resurfaced and restriped. It will be two-way until you get to the light. When you get up to Sharon Church it will become one-way as it is today. Mr. McLaughlin said that we previously discussed sidewalks on that side of University Boulevard. He talked to Roadmaster Jim Henkemeyer and he made a suggestion. Since the sidewalk from the school district is up high there and it is a path, maybe we could incorporate something high on Carnot Road, perhaps even a sidewalk. This way, there would be a pedestrian walkway for the students. Mr. McGurk said that the alternate sidewalk plan would have incorporated sidewalks on that side of the road. Mr. McLaughlin asked if Mr. Petroccia agreed to a sidewalk or walkway up higher that would keep pedestrians off University Boulevard and still give them access to walk through that area. Mr. Eicher said that Mr. Wooster made a statement that they are going to upgrade Carnot Road to Moon Township standards. He asked if he is familiar with the Moon Township Standard Detail. Mr. Wooster said that he is not intimately familiar with that. His understanding is what is offered but they have yet to design it. Mr. Eicher cited the standard detail. It calls for a 50' right-of-way. Here is how you get to it. It includes two cartways, each of which is 11½ feet. Starting from the center of the road, there is the 11½ foot cartway, 1½ foot gutter/curb, a 2-foot "no dig" area, a 3-foot utility

easement, a 2-foot road easement, and a 5-foot sidewalk. If you are going to bring Carnot Road up to Moon Township standards, if that is what you really mean, you need 25' to do that. As Carnot Road exists today, if you are going up Carnot Road from Beaver Grade Road, to your left is a cemetery and a retaining wall. Along that retaining wall are utility poles. On the other side are six buildings. When you come from that pole to the edge of the paving, you are at 24'. Then you go over into these properties. What I am telling you is without a huge expense of removing a cemetery or tearing down buildings, you can't bring it up to Township standards. If you going to do something that is minimized, let's give 23' cartway make a safe walking area and put in sidewalks, you are going to have to take properties to do that. He asked who in the Township Mr. Wooster talked to about that before tonight. Mr. Celender said that what we are looking to do is improve that Township road. Mr. Eicher is right; we are not looking to improve and obtain right-of-way to go to 50'. We are looking to make the improvements according to the code to do that. The plan is to upgrade the cartway. Mr. Eicher said that we are building a new high school. Part of that plan includes putting a walkway that starts at the high school down past the stadium. Mr. McLaughlin is talking about extending that down. From there on down, you would have a sidewalk. Pedestrians coming from either the high school or Moon Clinton Road utilize Carnot Road. The road is not safe now. If you upgrade that road and put additional traffic on there and not install a sidewalk, it is a safety concern for pedestrians. Whenever you pave that road, you are encouraging people to drive faster and you have a road there where someone can hit a pole. When you get up to the corner where State Farm Insurance is located, motorists park there. You went this far to sit here with a final plan and tell us that you are going to do that. He is asking who in the Township you talked to about doing that. Mr. Celender said that the improvements to Carnot Road were requested by the Planning Commission and the Supervisors. It was not part of their project and was not required to meet the requirements of the project. When they went through the planning process, it was requested that they look at Carnot Road and bring it up to Township standards to make it a little better than what it is, we would appreciate that. It will create a "relief valve" for traffic on Brodhead and University. They agreed to do that as part of the project. The previous plan did not study that roadway but it was approved without it. The bottom line is that Wal-Mart said they would improve that roadway.

Mr. Eicher asked what's the difference between the last plan and this plan that they would have to upgrade Carnot Road. Mr. Celender said that nothing has changed. They were going to do it before and we said we will do it now at the Township's request. Mr. Eicher said if you say that nothing has changed, let's go to your Level of Service Summaries in the traffic impact study report (Table 1-C). If we are going to talk about levels of service, maybe we should define what level of service is. Ms. Elias-Kirk said that we are talking apples and oranges here because what Mr. Celender was saying is that improving Carnot Road is not required by your ordinance; yet they have agreed to do it. If you do not want us to do it, they will be happy not to. Mr. Eicher said that we need to have your traffic engineer explain what has happened with the traffic patterns and why you would want to upgrade it. The report was revised on June 14 and sent to PennDOT. Certain tables were revised because there were errors. If you go to Table 1-C. . . Ms. Elias-Kirk asked is not Trans Associates reviewing all of the submissions on behalf of the Township. Mr. Eicher said that they are as is PennDOT. You wrote a letter one time stating that the Township Supervisors are ultimately responsible. We delegate it to them, but aren't we ultimately responsible. Ms. Elias-Kirk said that as she understands it, these are state roads. Under your ordinance, you have the right to have

a T.I.S. submitted and to have input with PennDOT. But PennDOT has the ultimate responsibility for approving the traffic impact study and issuing the H.O.P.

Mr. Eicher said that Ms. Elias-Kirk is almost right. If you look at Ordinance No. 605, it identifies streets. We have local streets that are designed to serve the current residents. Those all feed into collectors. Collectors all feed into arterials. Beaver Grade Road, University Boulevard and Brodhead Road are all arterials. They are PennDOT roads. Carnot Road is a local road. Ms. Elias-Kirk said that we understand that. Mr. Eicher said that now we are getting back to why we want to look at this study. Let's see what impact this study has on Carnot Road—that is really where he is getting at. What this study is going to show you is that you have done a bypass. As he looks at it, he relates it to having a heart attack. You have an artery (the artery is Beaver Grade Road and University Boulevard). Ms. Elias-Kirk said that the bypass is to prevent the heart attack. Mr. Eicher said that he has a blockage in his artery so he bypasses it by putting traffic down Carnot Road. Let's take a look at your traffic study. In looking at Table 1-C and look at westbound left turn existing 2009. You are saying in 2009 to make that left turn onto University Boulevard from Beaver Grade Road. . . He asked Mr. Wooster to define level of service. Mr. Wooster said that it is a report card grade on the level of operation or characteristics of an approach at an intersection or a lane. A is really good; F is failure. Acceptable for design is usually C or D. Mr. Eicher said that the lower the letter, the less you are going to wait. If it is an A, you would expect about a 10 second wait; at F it is about an 80 second wait. If you look at your westbound left turn lane, in 2009 it is a C at 28.9. In 2011 without development it will jump to 75—it failed. But if you build the store the intersection gets better. What you are telling me in that report is that in 2011 if you don't build the store, the intersection gets a whole lot worse. If you build the store it gets better. Mr. Wooster said that in Mr. Eicher's analogy before, he is comparing apples to oranges. He is comparing an unsignalized intersection to a signalized intersection. Mr. Eicher said that he is looking at the same intersection. In 2011 without development it is an E. In 2011 with development it is a C. The road actually improves because they build—without any mitigation. Just by building, it gets better. Is that what it is telling him? Mr. Wooster said that approach gets better because traffic was requested to use Carnot. Mr. Eicher asked who requested to use Carnot. Mr. Wooster said that the trip generation was mutually agreed to and approved by your consultant and the Department of Transportation. Mr. Eicher said that you structured that intersection so that there would be less traffic going there and going down Carnot Road—onto a Township local road, which cannot handle the additional traffic. You said that you would upgrade the road but won't put sidewalks in. So what you are doing is you are bringing traffic down Beaver Grade Road and instead of pushing it to the signalized intersection, you are moving it up Carnot Road—a road that is unsafe for people to walk on.

Ms. Elias-Kirk said that she just wanted to clarify something. This is not unilateral. PennDOT has a very specific process on the T.I.S. They tell you what to study, with consultation. You have an expert here from Trans Associates who has had input on what is to be studied, how the turning movements are to go and where the trips are to be. All that was given to PennDOT. They approved it. Your consultant had input into that so are these questions you would like to ask of your own consultant and how they agreed to this. Mr. Eicher said that she was almost right again. Let me read to you the letter of April 7, PennDOT to Wooster. "Although the overall level of service drops are not anticipated at any study intersections, we did note some drops/increases in delay for several individual movements and approaches which are noted below. We request

municipal concurrence with these impacts per the Marginal LOS Degradation condition as described on Pages 33-34 of the Department's publication "Policies and Procedures for Transportation Impact Studies." If these are not acceptable to the municipality, then appropriate mitigations should be explored." Mr. Wooster asked if Mr. Eicher had read his response to that comments. Mr. Eicher asked if PennDOT had responded to Wooster's response. Mr. Wooster said that we have disagreed with PennDOT's interpretation of their own criteria. Mr. Eicher said that this is clearly an open item. PennDOT has said that they are not going to approve their T.I.S. until you either get the Township to agree to take this lesser or you upgrade it.

Ms. Elias-Kirk said this is where she says she thinks that Mr. Eicher is almost right. Under your ordinance there is not a requirement for us to do offsite improvements. It is only through PennDOT. Any land development plan that we have has to have an H.O.P. approved. The T.I.S. is at PennDOT. This process is going to proceed. We could debate this all night long and it won't do any good. Mr. Eicher said that on all public roads, whether it is state roads or Township roads, PennDOT has to approve it. Ms. Elias-Kirk said absolutely that is correct. Mr. Eicher said that whenever there is a traffic impact study done PennDOT has final approval. However, PennDOT does say that if you are going to have a negative impact, PennDOT will refer it back to the municipality.

Mr. Eicher asked Ms. Elias-Kirk if she was familiar with Smart Transportation that was implemented in 2008. Ms. Elias-Kirk said that she was. Mr. Eicher said that gives a whole new concept. PennDOT says that if it is going to affect a municipality, even though they have the final approval, they will at times say that a developer has to go back and satisfy a municipality. That is what PennDOT has said here. What I am telling you is the study you put together for Beaver Grade Road has not been approved. Ms. Elias-Kirk said that we never said that the T.I.S. has been approved. It is being worked on. You and I are saying the same thing. We are just disagreeing on the forum for the discussion. The forum is at PennDOT. I agree with you; this T.I.S. still has to be approved. The Township has input through your consultant and it is at PennDOT where that occurs. Mr. Eicher said that what PennDOT is saying is that there are deficiencies at these intersections. Ms. Elias-Kirk said that has to be addressed.

Mr. Eicher said that PennDOT told you that you have a choice—the Township accept it or remediate it. His question is when they wrote that letter to you on April 7 did you come to the Township and ask for consideration. Mr. Wooster said that we responded to the comments. Mr. Eicher asked if they came to the Township as PennDOT said and ask for consideration to accept the lesser. Mr. Wooster said not until the comments are addressed. Mr. Eicher said, even at this point, have you come to the Township and ask us to accept something less. Mr. Wooster said no; nor did we get the same comment from your traffic engineering consultant. Mr. Eicher said that if you look at the amount of numbers and calculations in Wooster's traffic study report (much of the stuff that is in here is computer-generated), you can take five traffic engineers to look at this and get five different responses. Ms. Elias-Kirk said that we have Mr. Wooster, who is the traffic engineer for Wal-Mart, and you have Trans, who is your traffic engineer, and then there is the PennDOT traffic engineer who has to agree. They are all going to look at it. Under Pennsylvania law, they have to get to a point where there is an agreement and an H.O.P. issued. There are a lot of cases that say that land development approval is conditioned upon getting the H.O.P. because somebody has to move first. That is why

this H.O.P. process is separate from the land development plan with the Township's input.

Mr. Eicher asked Ms. Elias-Kirk if she is familiar with the Policies and Procedures Manual for transportation impact studies. Ms. Elias-Kirk said that she was. Mr. Eicher quoted from Page 6 of that manual. It is a timeline. Where in that timeline does it show the transportation impact study getting approved? It is right in the middle. (He passed copies to the other Supervisors.) What he is telling you is that you are way ahead of where PennDOT says you should be. Next to the bottom, it deals with final land development approval right before the building permit. Actually, you already have construction drawings done. The T.I.S. is way up here on the left.

Ms. Elias-Kirk said that, with all due respect, this is a PennDOT document that shows how their process goes and it shows the land development process. But they still do not control the courts of Pennsylvania. The courts of Pennsylvania specifically say that land development approvals can proceed and they can be conditioned on the H.O.P. because very often the H.O.P. process takes a lot longer than land development approval. They do not want the land development approval held up while the PennDOT process is proceeding.

Mr. Eicher said that if you look at their timeline on the right, the final land development and the final step is H.O.P. approval. They recognize that. PennDOT bases this on the Municipalities Planning Code. PennDOT is not going to write this and not link it to the State laws. Ms. Elias-Kirk said that she thinks that Mr. Eicher and she are saying the same thing. Mr. Eicher said that we are miles apart. Ms. Elias-Kirk said that what she thinks Mr. Eicher is saying is that the MPC requires land development approval conditioned on an H.O.P. Mr. Eicher said absolutely he is not saying that. He never said that tonight. He is telling you that part of the H.O.P. process is a transportation impact study as part of the H.O.P. process. Ms. Elias-Kirk said that she agrees with that. Mr. Eicher said that there is also a land development. Ms. Elias-Kirk said that they are separate processes. Mr. Eicher said that they are separate processes, except they get joined because under our ordinance whenever you make your application for a land development which is a part of your requirement to do—to furnish a T.I.S. Ms. Elias-Kirk said which is what we have done. Mr. Eicher said that you cannot get your land development approved until you get the T.I.S. approved. Ms. Elias-Kirk said that it is conditioned upon it; that is what she is saying. There are cases that say that land development approval can proceed conditioned upon the T.I.S. and the H.O.P. That is what she is saying. She is not saying that it doesn't have to happen. Are you saying that you can't approve it until PennDOT approves it? Mr. Eicher said that I am telling you that part of the land development is approval of a transportation impact study. Ms. Elias-Kirk said that she agrees with that. Mr. Eicher said that at this point the transportation impact study has not been approved. If it has not been approved then we cannot approve the final land development. Ms. Elias-Kirk said that she is saying the T.I.S. is one step in the H.O.P. process. Mr. Eicher said that he agrees with that. Ms. Elias-Kirk said that you can approve the land development plan, subject to the T.I.S. and the H.O.P. being issued. Mr. Eicher said that he agrees with the H.O.P. but the T.I.S. is part of it. Ms. Elias-Kirk said that she and Mr. Eicher disagree with that interpretation of the law. Mr. Eicher said that right now you are asking us to give you final approval of a plan for which there is no T.I.S. approved. If I vote tonight to approve your plan, I am in essence approving the

T.I.S. Ms. Elias-Kirk said that you can say that you are approving the plan conditioned upon an approved T.I.S. by the Township and an approved H.O.P. by PennDOT.

Mr. Wilhem said that we have received a letter from the Township which indicates that one of the conditions of approval is that we get an H.O.P. through the PennDOT process. You are participating in the PennDOT process by both your solicitor and your engineer as well as all of the individuals' interests represented by Moon First. In addition to that, PennDOT is participating in that process, representing the interests of the Commonwealth of Pennsylvania.

Mr. Eicher gave the flow of what has transpired to date. Ms. Elias-Kirk said that she agrees that we do not have an approved T.I.S. yet; they have said that from the outset. They are here asking for land development approval conditioned upon the T.I.S. and H.O.P. Mr. Eicher said that in the January 31 letter written by Trans Associates, they recommended a barrier be put on Brodhead Road. He asked Mr. Wooster what that barrier was that they were recommending for Brodhead Road. Mr. Wooster said that they were recommending a median island on the plan that is raised concrete. The median that he has shown and is recommending is back to the first light and is double yellow markings. There was some confusion whether the median of raised concrete was recommended by Trans Associates or by the Township. He has responded to that and there was a question whether there was accident potential; he has responded to that and identified that there wasn't. He continues to recommend the pavement markings as depicted on their plan. Ms. Elias-Kirk said that she thinks that we are way beyond where we need to be with this level of detail because they are asking for land development approval conditioned upon all of this happening at PennDOT with the Township and Wal-Mart having input. A median is in the design process that occurs after the T.I.S. is finished. She takes it that Mr. Eicher feels that there should be a median. Mr. Eicher said that he never said that. He talked about the March 31 letter from Trans but never said that there should be a median. Mr. McLaughlin asked Mr. Goetz from Trans come forward so that we can get past this issues. Mr. Goetz said that pertaining to the median issue on Brodhead Road, Wooster & Associates had submitted information on both the turns in and out of the several driveways between University Boulevard and the proposed Wal-Mart entrance. That factor, coupled with a below-average accident rate on that part of Brodhead Road, they concluded that the median was not really needed. Wooster counted the volumes of every one of those driveways and they were all less than ten vehicles per hour—some of which were just one or two per hour. Part of the purpose of that median was to restrict the turns in and out of those driveways, particularly the left turns in and out. After they saw the volumes and accident rates being so low they felt that the median probably wasn't needed. You probably have more flexibility with that being painted double yellow center line rather than a physical median. Mr. Eicher asked if this would affect left turning movements into Walgreens. Mr. Goetz said that it would have impacted any driveway. Mr. Eicher asked the queues for Brodhead Road traffic waiting to go across University Boulevard onto Beaver Grade Road. Mr. Goetz said that he does not have an exact number. However, when he reviewed the analysis that Wooster did, he knows that the queue was contained in what they had shown on their plan. Trans thinks that you can make those back-to-back turn lanes a little longer by moving the stop bar further west on Brodhead for the Wal-Mart driveway. You can also make the transition between the turn lanes shorter and pick up a little more. So we really have an issue with either queue. Mr. Eicher cited a section of Trans' March 31 letter. Between the new light on Brodhead Road and the light at

University Boulevard will be 430'. The eastbound through queue on Brodhead is forecast to be 296'. That means that the traffic waiting to go through there backs past Walgreens. Likewise, the westbound queue is 239'. He is saying that the queues are so long that they overlap. He agrees with what the traffic engineer says, but was never convinced that we need the median. He asked what PennDOT's response was to that. They said it needs to be looked at. He asked if it has ever been looked at. Ms. Elias-Kirk said that you have an expert that is working for you to work with PennDOT through this process and will represent the Township's best interest.

Mr. Eicher said that when Wal-Mart came before the Board in 2008 they had a different traffic engineer. He asked why they replaced their traffic engineer. Ms. Elias-Kirk said that they have the right to change traffic engineers any time they want.

Mr. McLaughlin asked Mr. McGurk if the Board can approve the preliminary plan tonight, conditioned upon the T.I.S. approval and the H.O.P. Mr. McGurk said that he would refer that to the Board's legal counsel. Mr. Santicola said that absolutely they could. When we send a letter out that we recommend approval, we are recommending the approval based upon certain conditions to apply. Any approval we give is going to be conditioned upon PennDOT granting this. Mr. McLaughlin said that if PennDOT does not grant an H.O.P. then they have to go back to the drawing board. If we approve this tonight, they still have to go back to PennDOT to get the T.I.S. approved and the H.O.P. permit issued. They cannot get a building permit until the H.O.P. is issued. Is that not what is required by our ordinance and is that not what held up the school district? Mr. Santicola said that the T.I.S. and H.O.P. are required for the plan. However, this condition can be put on the preliminary and final approvals. What he is hearing Mr. Eicher say is that the participation level that we are getting for the T.I.S. is not a level he is comfortable with. Mr. McLaughlin's question is if we can vote to approve this tonight with these caveats, the answer is yes.

Mr. Eicher said that in looking at the Moon Plaza/Robert Morris University intersection at University Boulevard, an intersection you were required to study, you detailed the remediation, which he cited. Their report indicated they would coordinate the traffic signal with the signal at University Boulevard/Brodhead Road. They will optimize the traffic signal timing. That is the extent of what will be done there. In 2008, their former traffic engineer said to construct a 100' southbound right turn lane on University Boulevard. In the previous plan that was approved, they were going to construct a 100' right turn lane. They were also going to perform minor traffic signal upgrades. I have two engineers (both employed by Wal-Mart) looking at the same intersection with the same data, but came up with two different remediations. Ms. Elias-Kirk said that it is not the same data because the entrance is changed. Mr. Wooster said that there is different trip generation data, different trip credits and distributions. A discussion ensued on the level of service at this intersection. Mr. Eicher said that several months ago, officials from Robert Morris University came to the Township expressing concern about the traffic at this intersection who have to make a left turn onto the University campus. They asked the Township to join with them to study this intersection, as there is no left turn arrow there. The previous traffic engineer recommended at 100' turn lane and this traffic engineer is recommending coordination of the traffic signals. The intersection is at an F level of service and he is concerned about the potential for an accident. Also, if the traffic has to wait too long at the University Boulevard traffic signal leaving the Robert Morris Campus, they will start using the back exit through Amherst Acres. With the plan you are

giving us for that intersection there are two things with a high potential of happening. (1) There will be more traffic going out the back exit from the school; and (2) there is a high probability of a college student being involved in an accident. For us to sit here and ignore all of this data whenever your other engineer said to do something about it (and you are saying to do nothing about it because we have new data and you are saying those numbers don't mean anything), you are saying to give us approval and we will make it right. But you haven't made it right so far.

Ms. Elias-Kirk said that the point that you are making about the safety of the residents of the Township is a valid point. That is what your traffic engineer is doing at your behest. PennDOT is looking at these issues. We understand that it has to be addressed and it will be addressed with PennDOT, their engineers, Wal-Mart's engineers and the Township's input. We are requesting that we be approved with the condition.

After discussion, Mr. Eicher said if we grant preliminary approval, and they correct these issues, then come back and show they have been corrected, otherwise why have these meetings at all. This is the forum for preliminary approval, not final, not with an outstanding issue like traffic. A major part of this whole Wal-Mart development is traffic. If we vote to give them preliminary approval and give them an opportunity to make the traffic correct and then come back, he thinks that is reasonable. With that said, maybe can we go ahead and give them preliminary approval.

Mr. McLaughlin said that before that, we will hear from residents. But he is not convinced that we should do that. We can give final but make it conditioned. But we will vote as a Board. Mr. Santicola said that the Board is not required to vote today. Mr. McLaughlin said that we have gone this long, he would like to settle this tonight. Mr. Wilhelm said that he objects to Mr. Eicher's last comment as being outside the scope of the quasi-judicial role he is in today. Mr. Eicher asked if we are in a quasi-judicial setting at this point. Ms. Elias-Kirk said that you are more in a legislative setting at this point. Mr. Santicola said that there is no official record. Ms. Elias-Kirk said that we are still in a public hearing that has been advertised on our land development plan and that is what Mr. Wilhelm is referring to. Mr. Eicher said that in sitting on this Board he serves in three different capacities. Mr. Santicola said that he does not think that Mr. Eicher needs to respond to that. He does not believe it is accurate.

Ms. Elias-Kirk said that she has another witness. Rick Celender wants to show the screening and the landscaping that was not shown before. Mr. Celender said they were requested to provide additional landscape screening along the University Boulevard site driveway A. They have provided this landscape screening as previously requested. Landscape architect Brad Hazelwood detailed the type of screening and the trees that will be used along University Boulevard. They have selected white pines that will be 8' in height, although the ordinance requires trees of 6' in height. Per the Township's ordinance, they are using a combination of evergreens, evergreen shrubs and deciduous trees around the remainder of the site, which will be a Bufferyard 1 or 3. Bufferyard 1 is by Colony West. Bufferyard 3 is on the hill and behind the site. Mr. Eicher asked the extent of the irrigation. Mr. Hazelwood said that currently there is no irrigation proposed with the exception of the planters in front of the building. Regarding the architectural aspect of the project, architect Rob Klemple of Scott & Goble Architects said he wanted to briefly go over the plan and the changes thereof from the previous plan. The plan is approximately 2,500 square feet larger than the previous plan. It is a new evolution of

the business model that was before this Board some time ago. The grocery component is on the left side; the merchandise is on the right side and has a dedicated entry. There will also be a third entry through outdoor living/seasonal sales. Across the front will be a series of tenants (typically, one is a food tenant), restrooms, customer service and ancillary services. The receiving dock is in the back. The garden center is on the opposite side of the building from University Boulevard. This area will be shielded with an ornamental fence, pilasters, etc. Incorporated into the sidewalk along the front is landscaping along that area. There will be no chain link fencing, only ornamental and screen walls. He showed an architectural rendering of what the front of the building will look like. It shows a substantial amount of glazing units across the front to comply with the ordinance, the termination of all the walls will be with a cornice. There are changes in height and scale, which is all compatible with what the ordinance states. There will be a series of canopies and awnings across the front and pedestrian amenities. He showed a series of elevation shots. He showed the breakdown of the materials that will be used on the exterior of the building to fit in with the surrounding buildings and meet the ordinance requirements. He asked if the Board had any questions. Mr. Eicher asked about planters under the windows. Mr. Klemple said that since the configuration of the garden center has changed they could not put the planters under the windows. There is no way to put those in appropriately and not impede pedestrian movements. Instead, they have added raised planters with seating benches and more trees and shrubs. Mr. McLaughlin asked about storage of trailers on the property. Mr. Klemple said that because of the geometry of the site and how the building sits on the site, there is no opportunity for additional containers to be situated on the site. He understands that is an issue, but is not sure if there is language that prohibits that. Mr. McLaughlin asked when most delivery traffic would take place. Mr. Klemple said that throughout the day the smaller vendors would make their deliveries. But the Wal-Mart fleet typically drops off a trailer for unloading and drives away. By doing so, the truck does not sit there idling. The truck is normally gone by midnight. This happens so that the store can be stocked for the next day. He is not certain of the exact time or the number of deliveries but he can find that out from Wal-Mart. Mr. McLaughlin said that he was curious as to how those trucks would impact the traffic and the neighbors at Colony West.

Mr. Eicher said he had an additional comment for the traffic engineer with regard to traffic. When you are adding new traffic signals, you have to make application to PennDOT. However, when you are applying for it, the application comes from the Township and the Township will own the signals. The maintenance of those signals is the responsibility of Moon Township. PennDOT has nine warrants for traffic signals and you have to meet one of those nine warrants. He asked if they meet one of those warrants for the signal at University Boulevard. Mr. Wooster said that they feel that they do. Mr. Eicher asked which one. He thought meets warrant No. 9 and comes out of the PennDOT 212 Manual. Mr. Goetz said that was correct. Mr. Eicher said that PennDOT 212 states that if you do not have the studies you have to meet certain criteria to meet that warrant. You do not meet those criteria. Here is what PennDOT said in their April 7 letter. "It appears that this intersection does not satisfy Warrant 9 without issuing the 70 percent reduction." How do you get the 70 percent reduction? It is based on the speeds. You have to be 10 miles an hour over the speed limit to qualify for it. PennDOT finally said "it should also be noted that using Warrant 9 requires new counts to be taken within six months of opening day. If the new counts indicate that the traffic volumes do not satisfy any warrants then the developer may be required to remove the traffic signal." Let me tell you what you said. My problem is this: You have a study that has traffic volumes

down to the point where it doesn't justify a traffic light, but you know you need a traffic light. PennDOT says that you are under the threshold for a traffic light but you are going to put it in and prove in six months that we need it. That tells him that you are saying now that the traffic levels are going to exceed what you are saying they are. Mr. Wooster said that is not true at all and Mr. Eicher is entitled to his own guess. What he said was when you do a forecasted warrant, the Department of Transportation wants proof that forecasted warrant is indeed established. We have been doing this for a long time. When we do a forecasted warrant, we are fairly confident in what we do for a living that we are going to satisfy the warrant. They are very, very confident that they are going to satisfy that. But if we are wrong, then we will have to take it out; but he does not think they will be wrong. Mr. Eicher said that Trans has stated that using the 100 percent values they are not going to satisfy this. Mr. Wooster said that using the 100 percent volumes that is correct; using the 70 percent they do. But Trans also said in their June 23 letter in accordance with PennDOT 212, the after-study must be conducted within six months of the opening of the development. If traffic volumes do not satisfy this warrant (or one or more of the eight other warrants) consideration should be given to replacing the signal with appropriate traffic control. They are reiterating with what Department of Transportation has already told us. We responded back to the Department of Transportation. Trans' last statement is that at this point TA feels that the consultant has satisfactorily addressed all comments except for the additional analysis being needed for Comment 16 which he addressed previously.

Ms. Elias-Kirk said that is all they have unless anyone else has any other question.

**[The Board took a five minute recess prior to public comments.]**

**PUBLIC COMMENTS:**

Tony Mester of College Park Drive asked if the problem has been resolved if a car is attempting to make a left turn into Colony West would that cause traffic to back up into the Brodhead Road/University Boulevard intersection.

David L. Nixon said that he represents the owners of Colony West apartments. He did give his comments before the Planning Commission and has discussed them with counsel for Wal-Mart who satisfied a lot of the concerns. There are still several being discussed—some of which he feels are important enough to ask the Board to make a condition of approval. When the landscape architect was testifying, he testified to Bufferyard 1 which will be between Colony West and the Wal-Mart property. He said that it would be a little thicker than the other bufferyard. Mackin Engineering, who looked at the plans for them, noted that under the plantings in Bufferyard 1 it is shown to be a grass area. He feels it would be better to be mulch as it would not require mowing. In looking at the hydrology, the runoff from their Parcel 1D, once developed there will be a place for the water to go. But they are concerned about that during construction. While there was discussion about trucks and delivery, they are concerned about noise during construction. Mr. McGurk explained that construction would be limited to the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday. No work is to be done on Sundays or Federal holidays. Mr. Nixon said that he would like his next two comments placed as conditions of approval by the Board, which he has already discussed with the Wal-Mart counsel. His first comment is about the sidewalk issue. He asked that Wal-Mart be required to continue their sidewalk to connect to Colony West Drive. The last issue is the

traffic issue. There is a very short stacking distance for cars wanting to make a left turn into Colony West. He is concerned about Colony West's driveway being blocked by southbound traffic. They are asking for a requirement that a sign be placed at Colony West Drive stating "Do No Block Driveway." That would be subject to PennDOT's approval.

Doug Reinhardt of Colony West Drive said that concerning truck traffic, he has been to the Wal-Mart in Robinson and has observed trucks going in and out at 2:00 or 3:00 a.m. He was concerned about the trucks being in close proximity to the back of Colony West.

Chris Lemaster of Colony West Drive said that trying to get out of Colony West Drive is a nightmare as it is. It is appalling to him to put such a big store in Moon Township. We do not need a big store like this that will create all these traffic jams. The people of Colony West have a hard time parking as it is. He is concerned that Wal-Mart will not have enough parking during the holiday season and people will park in Colony West and walk over. He is concerned about other Moon Township businesses closing once Wal-Mart opens. He is concerned about crime, truck traffic and lighting.

Helen Sutton of Crabtree Drive said that she is not opposed to Wal-Mart; she is opposed to the size of this Wal-Mart. It should be made to comply with our Township rules and regulations. She wants to know who she should hold accountable when she cannot come out of Shafer Road onto Brodhead. She is opposed to all the variances we have given them. Mr. McLaughlin asked if there isn't a traffic light there now. Mrs. Sutton said that there is. Shafer Road is not even a part of the traffic study. Please consider making this a smaller Wal-Mart.

Jerry Pearl of Eastern Avenue said that this community established a comprehensive plan with an overlay district ten years ago, spending \$300,000 and involving the community in focus groups over a two year timeframe. Do not make a mockery of that effort by the community which was approved by your predecessors. What has been brought forth is a 151,000 square foot superstore with inadequate parking and inadequate pedestrian safety walkways. The size of the store is too big for the footprint. The superstore will cause gridlock in this community like we have never seen before. It will stack up traffic. We want you to tell Wal-Mart to design a mixed use development with a smaller size store. It is unfortunate that Wal-Mart did not offer us the market-side neighborhood store. This is not what a good neighbor would do. It involves giving the community what they want and allow the developer to accomplish a reasonable business objective. This has not happened; it is all about what Wal-Mart wants. He is not suggesting telling Wal-Mart to go elsewhere. He is telling the Board to tell Wal-Mart to be the good neighbor they promised to be and build a market-side neighborhood store within a mixed use development like they have in other communities.

Joseph D'Andrea of McIntosh Drive and a member of Planning Commission said that he is speaking as a private citizen. Headline: Wal-Mart Destroys the last vestiges of Carnot—a historical center that came to be in 1788. He echoes what Mr. Pearl has said. When we met in this room, there were developers, land owners, professional people, and citizens. We met ten years ago and asked that the Board think about a village concept to become a reality. Walgreens has become a beautiful corner and they followed the requests of the people. The comprehensive plan, for which we paid a lot, is the law in Moon Township and should be followed. He is not against the Wal-Mart; he is

against the present structure. It is unbecoming aesthetically and not what the people in Moon Township desire to have. What about the traffic? People from across the river will be coming here. Make this an Oakmont or a Sewickley. There are 5,000 students here who are consumers. They too want something better.

Stuart Debonham of Elm Lane said that he is objecting to this development because he does live very close to the proposed development. Tonight we are seeing a Wal-Mart that plays hardball. We don't want this bad corporate citizen in Moon Township. The cross-examination by the Wal-Mart lawyers was vulgar. Who is running this event tonight, Moon Township or the Wal-Mart attorneys? It was not clear to him. There should not be an entrance on Brodhead Road. People live here. Brodhead Road will have impossible traffic. After traffic becomes a disaster, who will fix it? So many citizens had to leave tonight's meeting because it has taken so long to get to public comments. It is a real disgrace to Moon Township.

Ed Nelson of Beacon Hill Drive said since there is no court reporter he is asking that his previous comments be included in this part of the meeting. Mr. Santicola said that there is no official record at this point. Mr. Nelson asked if his comments would be considered from the previous record this evening.

Mr. Behrend (representing Moon First) accompanied by traffic engineer Chris Kiefer addressed the Board. He distributed copies of his report. Ms. Elias-Kirk said that she objected to this witness as she stated during the public hearing. Mr. Behrend said that there is no record. Ms. Elias-Kirk said that this is where you make the record for the Court of Common Pleas and Mr. Behrend has indicated that there likely would be an appeal. She is objecting to the witness who is not licensed in Pennsylvania and his report. Mr. Santicola said that this part of the agenda is for citizen comments from Moon Township. Mr. Behrend is here on behalf of Moon First who are resident of the Township. Mr. Behrend said that was correct. Standard protocol in the courts for recognizing what credentials are necessary for someone to qualify as an expert are very liberal. You do not have to be licensed in the State. Mr. McLaughlin asked to please move this forward. Mr. Santicola said that the comments that Mr. Behrend should make are on the plan. Mr. Kiefer said that he reviewed the traffic study dated March 8, 2010 and reviewed the site plan by CEC, as well as visiting the site. He went over his comments contained in his report regarding all three of those—the traffic study, the site plan and site visit. Mr. Behrend addressed some questions to Mr. Kiefer regarding the findings in his report. He said to the Board as he stated at the workshop that they have the opportunity to tell Wal-Mart to make these corrections that will better what is being proposed. What he and Mr. Kiefer are doing here is the same thing—they are offering suggestions on ways to improve what is being presented. It is their hope that the Board would not vote on final approval tonight and ask Wal-Mart to come back with revisions and corrections. He thinks that the Board has an opportunity here to say to Wal-Mart to come back with a town center concept that we really do want to have here and will better our community. Monroeville took a stand on the same point. And what did Wal-Mart do—they came back with a much improved plan. You have the same ability to make this a much better plan.

Ms. Elias-Kirk asked if Mr. Behrend was asking that the documents he submitted be a part of the record. Mr. Behrend said that he does. Ms. Elias-Kirk said that there is a site lighting analysis and there was no one here to testify about it. She is objecting to it

because there is no context for it. Also, the planning observations are dated November 12, 2008 and that is obviously to a prior plan. Mr. Behrend said that nothing has materially changed. As Wal-Mart said when they came in it was essentially the same as the prior plan. So the comment is as pertinent as the prior plan. Ms. Elias-Kirk said that she is objecting to Mr. Timmons and his report for all the reasons she stated before. On the plan that was being shown and that Mr. Timmons testified to, there have been changes made. Rick believes that is not the plan that the Board has. She wants to make sure that we have as an exhibit Moon Township's comprehensive plan, Volume I. She wants that made a part of the record. It shows the University Boulevard overlay district and the regulations that apply to it.

Mr. Wilhelm said that Ordinance 585 integrates the comprehensive plan by designating the University Boulevard as the Beers School corridor and he would direct the attention of the Supervisors to page 114 and the statement "that the Beers School/Narrows Run corridor is traditionally the retail core containing several existing big boxes. Continuance of this regional retail focus should be encouraged and supplemented with additional business support and transit-related activities." In other words, in the University Boulevard district, where this project is located is specifically the district that this Township back in the 2000 plan said that this where the Wal-Marts, if they are going to be coming in, should be located.

**Action Item** – Mr. McLaughlin call for a motion to approve/deny the combined preliminary/final major land development plan for the proposed Wal-Mart Supercenter, subject to the Township Planning Department's review letter dated June 10, 2010, as recommended by the Planning Commission. Motion to approve made by Mr. Vitale, seconded by Mr. McLaughlin. Mr. Eicher said that he believes with what we have heard tonight we certainly want to look at the transportation. For us to give preliminary and final approval tonight is not in the best interest of the Township and is not in compliance with our ordinances to do that. He understands that we could give final with conditions, but he believes that it is established that you have a preliminary and a final for a purpose. That is the point where you approve the preliminary; then everybody has an opportunity to look at that—citizens and everyone. Then the applicant comes back again later and presents the final plan. For us to approve both the preliminary and final tonight, with the number of issues that are unresolved—particularly with the traffic—he believes it is the wrong thing to do. So his vote for both preliminary and final will be no. He would support a preliminary with some conditions attached to that preliminary. Mr. Gribben said that he would like to make one statement. As a Supervisor, we owe it to the community to fully investigate the traffic with this. This is the single biggest development that has happened here in years. From where he sits now, he cannot knowingly approve a final plan for this based on the questions he has regarding the traffic. Mr. McLaughlin said that it would be conditioned upon the T.I.S. and H.O.P. Mr. Gribben said that he understands that; but based on the motion that is on the floor, there are no conditions on this motion. Mr. McLaughlin said that Pennsylvania has a bad reputation for moving forward. In looking across the Commonwealth you see eyesores that have sit vacant for years and never addressed. This Carnot overlay district has been in place for ten years on which we have spent \$300,000. Wal-Mart is the first developer who has come in here and offered to clean up this eyesore and give the Township something that will generate some tax revenue. I applaud them for that. They are willing to put money into the traffic improvements and PennDOT knows that. They are probably one of the only major retailers that will come in here. Target was approached, but they bailed out. That is why

Wal-Mart is here. This Carnot village atmosphere that everyone is talking about and he would have loved to have seen, no one is stepping to the plate to do it. Now we have someone coming in here that is willing to put money into this community and most likely will be a good neighbor by providing jobs for kids and donate money. Pennsylvania now has an opportunity to do something. Instead we watch North Carolina and South Carolina grow and watch all our young population move down there. We will still be sitting here fighting because it is not what we want to see and is not a perfect situation. I have heard comments that there are Wal-Mart's everywhere, but how many Giant Eagle stores are there? They seem to all be prospering. These are things that residents have told him. There are residents who do not want this, but there are a lot that do. He has been asked by residents why the Board is holding this up. I can see why businesses move south and do not want to do business in this state that we live in. His daughters have graduated from college and do not want to live in Pennsylvania, and he can understand why. And tonight we are going to potentially stall another deal.

Mr. McLaughlin called for a roll call vote. Mr. Vitale and Mr. McLaughlin voted yes. Mr. Gribben and Mr. Eicher voted no. Motion to approve did not carry.

Mr. Eicher made a motion to approve the combined preliminary major land development plan for the proposed Wal-Mart Supercenter, subject to the Township Planning Department's review letter dated June 10, 2010, as recommended by the Planning Commission, conditioned that we get an approved Transportation Impact Study and the acceptance by the Township of modifications to Township roads. Motion seconded by Mr. Vitale. Yes votes were cast by Mr. Vitale, Mr. Eicher and Mr. McLaughlin. Mr. Gribben voted no. Motion carried.

Mr. McLaughlin thanked everyone for being here this evening. He is thankful that we could be respectful. We still have several more agenda items to address.

**[Mr. Eicher stepped out of the meeting room for a moment.]**

**UNFINISHED BUSINESS:**

- A. **Action Item** – Mr. McLaughlin called for a motion authorizing Contractor Payment Application No. 1 to Youngblood Paving, Inc. in the amount of \$357,728.55 for the 2010 Road Paving Program as recommended by the Public Works Director. Motion made by Mr. Vitale, seconded by Mr. Gribben. All Supervisors present voting yes, motion carried 3-0.

**[Mr. Eicher returned to the meeting room.]**

- B. **Action Item** – Mr. McLaughlin called for a motion authorizing Contractor Payment Application No. 10 to A. Liberoni, Inc. for the Moon Park Improvement Project in the amount of \$45,230.76 conditional upon site inspection report and appropriate adjustment following site visit scheduled for Friday, July 9, 2010. Motion made by Mr. Vitale, seconded by Mr. Gribben. All Supervisors present voting yes, motion carried 4-0.

**MOTION TO PAY THE BILLS:**

Mr. McLaughlin called for a motion to pay the bills [**check no. 6128 through check no. 6443, EFTs, Capital Reserve check no. 1130 through check no. 1147, and Liquid Fuels check no. 1004 and 2005 Bond Fund check no. 161**]. Motion made by Mr. Gribben, seconded by Mr. Eicher. Mr. McLaughlin called for a roll call vote. All Supervisors present voting yes, motion carried.

**COMMENTS FROM THE AUDIENCE:** (There were none.)

**REMARKS FROM THE SUPERVISORS:** (There were none.)

There being no further business before the Board, the meeting adjourned at 2:07 a.m.

Respectfully submitted,

Janet L. Sieracki  
Assistant Municipal Secretary

