

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. Sinatra, Mr. Eicher and Mr. Gribben.

Mr. McLaughlin said that prior to this meeting the Board met in executive session to discuss personnel matters and litigation.

PUBLIC COMMENTS ON AGENDA ACTION ITEMS:

(There were none.)

APPROVAL OF MINUTES:

Action Item—Approval of the minutes of the Workshop Meeting of June 30 and Regular Meeting of July 7, 2010, which were distributed to the Board of Supervisors for their approval. Motion made by Mr. Sinatra, seconded by Mr. Vitale. 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. Mr. McLaughlin advised citizens that the Moon Township Volunteer Fire Department will hold a Classic Car Cruise in Moon Park on Sunday, August 29, 2010 from 8:00 a.m. until dark. There will be refreshments and entertainment.
- B. Mr. McLaughlin recognized Chief Leo McCarthy who announced that Officer Frank Starko will complete his Bachelor of Science degree in criminal justice from Penn State University. Officer Starko has been admitted to the graduate school of legal studies at California University of Pennsylvania where he will begin a master's study program. This is the same officer who recently completed the Pittsburgh Marathon. Chief McCarthy cited Officer Starko's many other accomplishments. He said that we are proud of all of our officers, but this is a very significant achievement.

NEW BUSINESS:

- A. **Action Item** – Mr. McLaughlin called for a motion to approve/deny the Sonoma Ridge Phase IV Revision 1 simple subdivision, subject to the Township Planning Department's review letter dated July 7, 2010. Motion to approve made by Mr. Sinatra, seconded by Mr. Gribben. Mr. McGurk said that the applicant's representative is here to give the Board an overview of the plan. Mr. Bob Bednar, surveyor for the Meritage Group, said that the prospective home buyer did not want to own property across the access easement so they offered to convey that area to the homeowners' association which was part of the prospective home owner's parcel. Instead they will include a different piece of property in the property owner's lot. This revision just changes the lot lines of this parcel. The open space is not affected and the lot size is not affect. Yes votes were cast by Mr. Gribben, Mr. Eicher, Mr. Sinatra and Mr. McLaughlin. Mr. Vitale abstained. Motion carried.
- B. **Public Hearing** – 8900 University Boulevard: Kenny Ross Toyota Dealership Conditional Use Request

Mr. McLaughlin opened the public hearing for 8900 University Boulevard to consider the conditional use request from the Kenny Ross Toyota Dealership. The Board and those wishing to give public testimony were sworn in by the court reporter. Mr. Jonathan Kamin, representing Kenny Ross Toyota, made a presentation on the conditional use request. With him this evening are Jimmy Ross of the Kenny Ross Dealerships, Tony Ross, president of Ross Development Company and Pat Cooper of Gateway Engineers, civil engineer for the project. Mr. Kamin gave a history of their plan to construct a new Toyota dealership further up University Boulevard. They are now applying for a deviation for their building material; however, they do not believe they need a deviation for the building material. This material is required by Toyota. The original discussion was whether or not the Alucabond panel was a prefabricated metal panel as is prohibited by the University Boulevard overlay district ordinance. At the last meeting Chairman McLaughlin asked that they bring in a sample of this building material which they have done. He described why they thought that Alucabond is not a prefabricated metal panel but an aluminum composite material. Therefore, they believed that they did not need to request a deviation. However, at the request of the Board, they are applying for the deviation. He explained why they need to have this material. First, it is a "green" material and, as a result, the building will be a lead certified green building—something that is very important to Toyota's "green" movement. With the exception of this material, the building is otherwise in compliance with every aspect of the Township ordinance. Secondly, per a letter they received from Toyota, they have never deviated from this specification in an Image 2 Flagship dealership, which is what they were approved for. Mr. Kamin said that this is a very expensive material—more expensive than brick, glass or any other material that is currently permitted under the Township ordinance—and is required by their brand. Following the presentation Mr. McLaughlin asked if there were any questions from the Board. (There were none.) Mr. McLaughlin called for comments from the public. Mr. Glenn Bush of 213 Timberyoke Road said that he is familiar with Alucabond. He feels that the Township's ordinance with reference to prefabricated metal panels refers to industrial-type buildings which he feels should not be allowed in either the University Boulevard or Carnot Village overlay districts as they are not at all attractive. He is looking for clarification of what the intent is by this requirement in the ordinance. He hopes that the Board looks at each request on an individual basis and is

careful not to set precedence. Mr. McLaughlin called for a motion to close the public hearing. Motion made by Mr. Eicher, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.

- C. **Action Item** – Mr. Mr. Laughlin called for a motion to approve/deny the conditional use application for the Kenny Ross Toyota Dealership as submitted, which would permit the use of prefabricated metal panels at 8900 University Boulevard (697-L-255 and 697-L-257) subject to the Township Planning Department’s review letter dated July 13, 2010 as recommended by the Planning Commission. Mr. Sinatra asked if the wording of this motion can be amended to substitute the wording “to permit the use of Alucabond” rather than the use of “prefabricated metal panels.” Mr. McGurk said that the motion does state “as submitted” so no other type of metal panel would be permitted. Mr. Firman said that the type of material can be included and that would be acceptable. But as Mr. McGurk said, the Board is protected by the Planning Department’s review letter as reflected in the motion. Mr. Kamin said that as a point of clarification, one of the panels is termed “Rynobond” but it is the same thing. Mr. McLaughlin called for a motion to approve/deny the conditional use application for the Kenny Ross Toyota Dealership as submitted, which would permit the use of prefabricated metal panels identified as Alucabond or Rynobond at 8900 University Boulevard (697-L-255 and 697-L-257) subject to the Township Planning Department’s review letter dated July 13, 2010 as recommended by the Planning Commission. Motion to approve made by Mr. Sinatra, seconded by Mr. Vitale. Mr. Eicher said that he is the one that raised the question last month and would like to explain his reason for raising the question. Ordinances by their nature are restrictive. Five years ago, based on what came out of the comprehensive plan, we adopted two overlay districts. A lot of time and discussion went into that. Like any ordinance, it is not perfect and takes some interpretation. He gave a history of the plans that had previously come before the Board for developments that occurred in those districts and the materials that are permitted and prohibited in the districts. He is not questioning the make-up or quality of the material. The ordinance states that prefabricated metal panels are not permitted. An ordinance that was enacted and amended can always be changed. He does not believe in changing it each time with a conditional use. He thinks that we would be sending the wrong message to the developers that previously came before the Board. He is also concerned about the next developer that comes in with a similar request. Based on that, he does not believe that what has been presented to us tonight meets the intent of the overlay district. His vote will not be in favor of this conditional use. Mr. McLaughlin said that he is looking out at our Public Safety Building and sees the panels that are on there now. He would think that Alucabond would look much better that what we have put on our own building. He knows that they have a legal right to come before the Board to ask for this deviation. He appreciates the fact that Kenny Ross Development will be coming to Moon Township and he will be supporting this. Too many times he has heard that Moon Township is not business-friendly. This is not the message he wants to send to the business community in western Pennsylvania. This dealership will not be a detriment to University Boulevard. We made the school district jump through hoops which likely cost the taxpayers millions of dollars that they probably did not have to spend. We have to start putting things in their proper perspective. Mr. McLaughlin called for a roll call vote. Yes votes were cast by Mr. Sinatra, Mr. Vitale, Mr. Gribben and Mr. McLaughlin. Mr. Eicher voted no. Motion carried.

D. **Action Item** – Mr. McLaughlin called for a motion to approve/deny the combined preliminary/final major land development plan application for the Kenny Ross Toyota Dealership, subject to the Township Planning Department's review letter dated July 13, 2010, as recommended by the Planning Commission. Motion to approve made by Mr. Sinatra, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.

E. **Public Hearing** – 1521 Coraopolis Heights Road Rezoning Request

Mr. McLaughlin opened the public hearing to consider the 1521 Coraopolis Heights Road rezoning request. Those wishing to give public testimony were sworn in by the court reporter. On behalf of the applicant, Jonathan Kamin and Steven Victor made a presentation to the Board. Mr. Kamin said that this rezoning request is similar to the request that was previously submitted to the Board. However, this request includes the provision that the Carnot Village overlay district be added to the rezoning request. Mr. Victor gave a general presentation on the location of the property and the specific use for that property. Mr. Victor explained the zoning and land uses of all four corners of that intersection. He also explained how the property could also be developed into four individual group homes, each on a one-acre lot, which would be permitted under the current R-1A zoning. He explained how the assisted living facility would be the best transition from the commercial district to the residential zoning district. The only trip generation from this facility would be by employees who would be going to or from work or by visitors. He talked about the buffering and screening that would be done to the property. He explained why the property is not being considered for a single-family residence, given its location at a high-traffic intersection with a traffic signal. Mr. Kamin submitted a number of petitions circulated by the Tarquinos showing the support of the community in favor of the rezoning. He also showed a rendering of the proposed modular homes that would be constructed should this property not be rezoned. He said that the Tarquinio property is going to be redeveloped one way or another. The Tarquinio family has made the decision to sell it and what is being proposed to the Board is the highest and best use for this particular piece of property. Mr. Kamin and Mr. Victor answered questions from the Board on various aspects of the assisted living facility. Mr. McLaughlin called for public comments. Public comments were given by the following:

- Stephen Jurman, attorney for residents of Nyetimber, 112 Portvue Drive
- Richard Sica, 232 Gentry Road
- Roberta Sharraf, 112 Portvue Drive
- Robert Capwell, 1515 Coraopolis Heights Road
- Larry Bufalini, 1733 Beaver Grade Road
- Rose Varsanik, 104 Great Oaks Drive
- Julie Tilton, 106 Great Oaks Drive
- Beryl R. Johnson, 224 Gentry Road
- Lynne McCullough, 217 Gladdwood Road
- Madeline Chesky, 119 Nyetimber Parkway
- Cathy Collins, 130 Nyetimber Parkway
- Glenn Bush, 213 Timberyoke Road
- Elaine Poliziani, 204 Timberyoke Road
- Kurt Gottschalk, 10 Cherrington Lane
- John Whitmire, 131 Nyetimber Parkway

Mr. McGurk listed those documents that he is submitting as a part of the record. This matter was before the Planning Commission and there was no recommendation made as it was a tied 2-2 vote.

Mr. Kamin listed those people in attendance in support of the rezoning request. With respect to the Sunrise issue that was brought up, this is a completely different application. That was a curative amendment that should stand on its own merits. In addition to the residents who he described are here tonight, he did present the Board with a petition of people who are in support of the rezoning request. While he appreciates the comments of the residents who object to the rezoning request, he asked that the Board act favorably on it.

Steve Jurman said that, in closing, the issue today is rezoning this particular piece of property from R-1A to C-1. The question is whether this property meets the tests for rezoning. The issue is not whether assisted living is the desirable use. Assisted living is desirable; we all know that. The question is not whether this assisted living facility is better than four group homes, which are not even a part of this debate. The issue needs to stand alone. Does this property merit to be rezoned? As Mr. Gottschalk said, there is a comprehensive plan in place. The Board's predecessors in the Sunrise matter did not agree that it had no precedent. The project was essentially identical and the testimony very similar. This Board made findings of fact and conclusions of law. They concluded that the assisted living facility was not compatible with the comprehensive plan at that location. He understands that the comprehensive plan is in its early stages of its ten-year review. If changes are to be made to properties in the Township, they should not be done piecemeal or lot-by-lot but as a part of the comprehensive plan as it may or may not be revised. There has been no testimony that this property has ever been marketed as a single residential lot. We understand that the property is to be sold with a covenant. However, there is no covenant running with the land nor is it even under agreement at this moment. If the Board approves this rezoning request, this property is now commercial. Anyone can come in and propose any lawful C-1 use. There is no protection as it currently stands. In the words of the Supervisors in 2008 when considering the Sunrise development, their conclusion at that time was that the site proposed by Sunrise—the same development being proposed here—the site proposed by Sunrise in the R-1A low density residential district in which it would be located is entirely inappropriate for a high-density use such as that proposed.

Mr. McLaughlin called for a motion to close the public hearing. Motion made by Mr. Sinatra, seconded by Mr. Gribben. All Supervisors voting yes, motion carried.

Action Item – Mr. McLaughlin called for a motion to approve or deny Ordinance No. 632 concerning the rezoning of 1521 Coraopolis Heights Road. Motion to approve made by Mr. Sinatra, seconded by Mr. Vitale. Yes votes were cast by Mr. Vitale, Mr. Sinatra and Mr. McLaughlin. Mr. Eicher and Mr. Gribben voted no. Motion was approved.

F. **1521 Coraopolis Heights Road – Subdivision**

- **Action Item** – Mr. McLaughlin called for a motion to approve/deny the Nyetimber Group Residence minor land development plan application subject to the Township Planning Department's review letter dated April 29, 2010. Mr. Kamin

said that in view of the Board's prior motion, on behalf of the applicant he would like to withdraw this application.

- G. **Action Item** – Mr. McLaughlin called for a motion to adopt Resolution R-16-2010 under Section 147(f) of the Internal Revenue Code as requested and recommended by the Moon Industrial Development Authority for Cellone Bakery, Inc. Motion made by Mr. Eicher, seconded by Mr. Vitale. Ms. Creese said that since the Industrial Development Authority is an arm of the Township, this requires Board approval. It does not obligate the Township or use any municipal funds. All Supervisors voting yes, motion carried.
- H. **Action Item** – Mr. McLaughlin called for a motion to accept the resignation of Shirley Trkula from the Moon Township Recreation Authority Board and appoint Ron Faherty to fill the unexpired term to expire the first Monday in January 2013 as recommended by the Moon Township Recreation Authority Board. Motion made by Mr. Sinatra, seconded by Mr. Eicher. Mr. McLaughlin said that Mr. Faherty has been on that board before and has done a good job. Mr. Eicher said that we would like to thank Shirley Trkula for her service. All Supervisors voting yes, motion carried.
- I. **Action Item** – Mr. McLaughlin called for a motion to appoint Shandel Livada to the position of part-time dispatcher in the Moon Township Police Department upon satisfactory completion of training requirements effective immediately. Motion made by Mr. Vitale, seconded by Mr. Sinatra. Mr. McLaughlin said that he knows that Chief McCarthy puts a lot of time and effort into making sure he hires the best-qualified people for the job, no matter what it may be. Chief McCarthy said that this individual is highly qualified and skilled. All Supervisors voting yes, motion carried.
- J. **Action Item** – Mr. McLaughlin called for a motion to accept the bid of Sapp Roofing in the amount of \$14,643.00 for the Mooncrest Community Center Roof Replacement CD 36 7.2 project to be administered by the South Hills Area Council of Governments. Motion made by Mr. Vitale, seconded by Mr. Eicher. All Supervisors voting yes, motion carried.

UNFINISHED BUSINESS:

- A. **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 \$39,613.76 with adjustments as detailed in Baker's Inspection Report 21. Motion made by Mr. Sinatra, seconded by Mr. Vitale. All Supervisors voting yes, motion carried.
- B. **Action Item** – Mr. McLaughlin called for a motion to cancel the contract with Penn-Ohio Sealing Co. dated June 24, 2010 as recommended by the Township Manager. Motion made by Mr. Vitale, seconded by Mr. Gribben. Ms. Creese said that this is for the sealing of the tennis courts. There was a technical error in the bid specifications so the contract is being cancelled. It will most likely be replaced with a state contract due to the time of year. All Supervisors voting yes, motion carried.

MOTION TO PAY THE BILLS:

Mr. McLaughlin called for a motion to pay the bills [**check no. 6444 through check no. 6658, EFTs, Capital Reserve check no. 1147 through check no. 1161, and 2005 Bond Fund check no. 162**]. Motion made by Mr. Vitale, seconded by Mr. Sinatra. All Supervisors 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 10:10 p.m.

Respectfully submitted,

Janet L. Sieracki
Assistant Municipal Secretary