

## 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 Jim Vitale presiding. Supervisors present: Mr. Vitale, Mr. Sinatra, Mr. Eicher, Mr. Gribben and Dr. Mills.

### PUBLIC COMMENTS ON AGENDA ACTION ITEMS:

(There were none.)

### APPROVAL OF MINUTES:

Mr. Vitale called for a motion for approval of the minutes of the Workshop Meeting of September 28 and Regular Meeting of October 6, 2011, which were distributed to the Board of Supervisors for their approval. Motion made by Mr. Sinatra and 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:

- |  |                                   |
|--|-----------------------------------|
| 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. Environmental Advisory Council        | n. Parks & Recreation Dept.       |
| f. Fire Department                       | o. Planning Commission            |
| g. H.A.R.B. Board                        | p. Police Department              |
| h. Local Services Tax                    | q. Road Department                |
| i. Moon Industrial Development Authority | r. Valley Ambulance Authority     |
|  | s. List of bills to be paid       |

### ANNOUNCEMENTS:

- A. Mr. Vitale recognized Jonathan Potts, Robert Morris University Senior Director of Public Relations. Mr. Potts said that he would like to invite everyone to RMU's homecoming and football game. It will be the first night game for RMU. On November 12, 2011 RMU is having Military Appreciation Day. All active military personnel and veterans will get in free. It is also youth football and cheerleader day that day. The home opener basketball game will be on November 11. Free t-shirts will be given to the first 250 fans. The Robert Morris Colonial Theater's next production will start on November 9. He extended an invitation to everyone to come on campus and visit RMU. If anyone has any questions, they can contact him.
- B. Eagle Scout Candidate Jesse Klug talked about his Eagle Scout project. He is paying a tribute to the United States soldier. He recently lost two people who meant a lot to him—his grandfather who was a veteran and a friend who was an active military soldier. For his Eagle Scout project he is working with the United States Veterans and a local veterans' cemetery—The National Cemetery of the Alleghenies. Wreaths Across America is a program that allows people to fundraise to help the families of veterans who are deceased.

By donating \$15 to Wreaths Across America a wreath will be placed on the grave of a deceased veteran in time for the holiday season by his Boy Scout Troop. In addition to the respect shown for the veterans who are deceased, this program also helps the veterans who are hospitalized. He is working with the VA hospital in Oakland and the funds will be used to purchase recreational equipment as Christmas gifts to the veterans receiving treatment in the hospital. He thanked Jeanne Creese for inviting him to speak today and allowing him to place wreath order forms in the Municipal Building.

- C. Mr. Vitale advised citizens, and particularly veterans, that the Disabled American Veterans Van is coming to Moon Township. The van will be at the Moon Township Volunteer Fire Department Public Safety Building location on Thursday, November 10, from 10:00 a.m. to 2:00 p.m. The goal of this mobile center is to provide a broad range of counseling, outreach and referral services to eligible veterans.
- D. Mr. Vitale said that Tuesday, November 8, 2011 is General Election Day. Polls will be open from 7:00 a.m. to 8:00 p.m.
- E. Mr. Vitale advised citizens that the Moon Township Board of Supervisors is accepting resumes and letters of interest from citizens interested in serving on various Township boards and commissions. Please check the Township web site for more information.
- F. Mr. Vitale advised citizens that that there has been a change in the collection schedule for the pick-up of leaves. Leaves will **no longer be picked up on Saturdays as in prior years**. The Moon Township Road Department will be picking up leaves at curbside and this will follow residents' garbage collection schedule. Leaf pick-up will conclude on Friday, December 2. Leaves must be placed in brown paper biodegradable bags and at curbside by 8:00 a.m. For further information, please consult the Township web site, MCA-TV or call the Township Office at (412) 262-1700.
- G. Mr. Vitale said that the leaf waste drop-off site at Downes Fire Station will be open on Saturdays and Sundays through December 4. The site will open at 9:00 a.m. and close at 5:00 p.m. In addition to leaves, residents may also bring brush to the site to be chipped by the Road Department.
- H. In honor of all of our veterans, Moon Township offices will be closed on Friday, November 11, 2011 in observance of Veterans Day.
- I. Mr. Vitale advised citizens that Moon Township Offices will be closed on Thursday and Friday, November 24 and 25, in observance of Thanksgiving.

**NEW BUSINESS:**

- A. **Action Item** – Mr. Vitale called for a motion to appoint Mr. Glen Farley to fill the unexpired term on the Moon Township Environmental Advisory Council effective through December 31, 2012. Motion made by Mr. Sinatra, seconded by Mr. Eicher. All Supervisors voting yes, motion carried.
- B. **Action Item** – Mr. Eicher called for a motion to appoint Ms. Kimberly Bartos to fill the unexpired term on the Moon Township Parks & Recreation Advisory Board effective through

December 31, 2012. Motion made by Mr. Sinatra, seconded by Dr. Mills. All Supervisors voting yes, motion carried.

- C. **Action Item** – Mr. Vitale called for a motion to award the purchase of a replacement boiler to Combustion Service & Equipment Company in the amount of \$17,170.00, as per PA COSTARS contract number 008126. Motion made by Mr. Eicher, seconded by Dr. Mills. Mr. Eicher said that, based on the report that the Board was given by Public Works, there are currently two boilers in the Public Safety Building. One of those boilers no longer works and the other is about eight or nine years old, but still functions. We can replace the one boiler for about \$10,000 and keep the old one. But for \$17,000 we can replace both of them. He asked Jim Henkemeyer to talk about where we are on this. Jim Henkemeyer explained the history of the boilers in the Public Safety Building. This new boiler would be a higher efficiency, state-of-the art boiler. All Supervisors voting yes, motion carried.
- D. **Action Item** – Mr. Vitale called for a motion to approve the Lease Agreement between the Township and Hopebound Ministries, Inc. for the Mooncrest Community Center Building subject to the Agreement being in a form acceptable to the Township Solicitor and Township Manager. Motion made by Mr. Sinatra, seconded by Mr. Gribben. Mr. Eicher recommended that we let residents know what we are doing. He said that the existing facility needs to be enlarged. Sister Rene has gotten some funding to do that. However, it is a public building for which Sister Rene has raised some funds. This is a mechanism to enlarge the building and still keep it a public building. By entering into this lease agreement, the building gets upgraded at no cost to the Township to do it. It will better serve the community and Sister Rene can continue what she is doing for the neighborhood. He thinks this is a very worthwhile project and this is the right thing to do. All Supervisors voting yes, motion carried.
- E. **Action Item** – Mr. Vitale called for a motion to award the bid for the construction of the Mooncrest Community Center Building Addition to C.W. Smith Contracting, Inc. in the amount of \$82,600.00 for the lowest total combined bid from a bid opening held on October 21, 2011. Motion made by Mr. Eicher, seconded by Dr. Mills. Mr. Eicher said that this is the contract to do the work approved in the previous motion. All Supervisors voting yes, motion carried.
- F. **Action Item** – Mr. Vitale called for a motion to pay Creative Concrete and Construction, Inc. in the amount of \$4,281.37 for the Public Works Facility Landscaping and Fencing Contract, Prevailing Wage rate determination certified on September 30, 2011, and as recommended in the Township Engineer's letter dated October 31, 2011. Motion made by Mr. Eicher, seconded by Mr. Sinatra. Mr. Lucas said that there has been an ongoing dispute with Creative Concrete. One of the components of the money in dispute was the lack of certification from the contractor that prevailing wage rates had been paid. After a lengthy period of time, that documentation was finally provided and the Township is obligated to pay those amounts. This does not solve all of the issues with Creative Concrete but does narrow the list. All Supervisors voting yes, motion carried.
- G. **Action Item** – Mr. Vitale called for a motion to appoint special counsel in the matter of Greg Smith v. Moon Township, et.al. to replace Sainovich and Santicola upon the recommendation of the Township's insurance counsel. Motion made by Mr. Eicher, seconded by Mr. Gribben. Mr. Eicher said that the Township's former manager, Greg Smith resigned in October of 2008. Subsequent to that, he put us on notice that he would

be filing a lawsuit against the Township for wrongful dismissal. In that suit he has named our former Solicitor in the suit. This matter will have to go before the Courts. Since this involves some claims against our insurance company we turned it over to our insurance carrier who is covering the insurance portion of this matter. They indicated that there may be portions not covered by the insurance company and recommended that we retain special counsel. They also felt that since the former Solicitor was named by the former manager, it was prudent for the Township to obtain other special counsel. This motion would take that action. It really is a two-part motion. The second part will be to select a replacement for Sainovich & Santicola. There are four firms that have submitted proposals. All Supervisors voting yes, motion carried.

**Action Item** – Mr. Vitale said as the second part of this action, the Board needs to select a firm to represent them as special counsel. Dr. Mills nominated Damian Amato & Start. They are a Sewickley firm and she believes that they would be very good for this position. The motion was seconded by Mr. Sinatra. All Supervisors voting yes, motion carried.

- H. **Action Item** – Mr. Vitale called for a motion to approve the Development Agreement between the Township and ANR Properties, LLC for the Breezewood Plan of Lots and Sunridge Estates Plan of Lots subject to the Development Agreement being in a form acceptable to the Township Solicitor and the Township Manager. Mr. Lucas said that this and the next rather lengthy motion are interrelated and he can give the public a brief background. As the Board is aware this deals with the incomplete nature of the former Breezewood and Sun Ridge Estates Plan of Lots. The Township was approached by ANR Properties about taking over part of that project and completing it. Subsequent to that the Board authorized filing a claim on the bond from when the project occurred some time ago. As a result of that, we seem to have gotten the best of all worlds that ANR has agreed to purchase the project from the prior developer and has agreed to undertake all of the previously bonded improvements. There are three steps to this. The first is a new development agreement with ANR as the new developer. The second item is basically an addendum to the old developers agreement with the old developer that once a number of conditions were satisfied that agreement would be terminated. The third item would release the bond under the old project developers agreement once the new agreement and new bonding are all in place. (There was no motion and second.) All Supervisors voting yes, motion carried.

- I. **Action Item** – Mr. Vitale called for a motion to approve the First Addendum to the Developer's Agreement between the Township and Fourways Properties Limited Partnership, in order to terminate the Developer's Agreement dated March 8, 2000, subject to the following conditions: (1) that the First Addendum is in a form acceptable to the Township Solicitor; (2) that the Township and ANR Properties, LLC execute a Development Agreement for the Breezewood Plan of Lots and Sunridge Estates Plan of Lots in a form acceptable to the Township Solicitor and the Township Manager; (3) that ANR Properties, LLC post performance financial security with the Township in a form and source acceptable to the Township Solicitor as required by such Development Agreement between the Township and ANR Properties, LLC; (4) confirmation that Fourways Properties Limited Partnership has transferred fee simple title in the roads within the Breezewood Plan of Lots and Sunridge Estates Plan of Lots to ANR Properties, LLC in a manner acceptable to the Township Solicitor; and (5) confirmation that Fourways Properties Limited Partnership has transferred rights in the stormwater detention area easement on Lot 13 of the Breezewood Plan of Lots, and the related utility and access

easement located along the boundary of Lot 13 and 14 of the Breezewood Plan of Lots to ANR Properties, LLC in a manner acceptable to the Township Solicitor. Motion made by Mr. Gribben, seconded by Mr. Eicher. Mr. Petroccia said that there is an additional utility easement that will need to be included. Mr. Lucas said that we can add “any additional utility easements deemed necessary by the Township Engineer. All Supervisors voting yes, motion carried.

- J. **Action Item** – Mr. Vitale called for a motion to authorize the release of the performance financial security for the Breezewood Plan of Lots and Sunridge Estates Plan of Lots posted by Fourways Properties Limited Partnership subject to the Township and Fourways Properties Limited Partnership executing a First Addendum to the Developer’s Agreement dated March 8, 2000 in a form acceptable to the Township Solicitor and the successful resolution of the Board’s conditions of approval for such First Addendum to Developer’s Agreement. Motion made by Mr. Sinatra, seconded by Mr. Eicher. Mr. Lucas said that security is not released until the new development agreement and new bonding are all in place. All Supervisors voting yes, motion carried.

**MOTION TO PAY THE BILLS:**

Mr. Vitale called for a motion to pay the bills [**check no. 9449 through check no. 9635, EFTs, Capital Reserve check no. 1312 through check no. 1322, and 2005 Bond Fund check no. 168**]. Motion made by Dr. Mills, seconded by Mr. Gribben. Mr. Sinatra said that for the Solicitor’s bill of \$25,983.07 he asked if the Board has been given a breakdown. Ms. Creese said that she would provide the Board with a copy of the solicitor’s bill broken down. All Supervisors voting yes, motion carried.

**COMMENTS FROM THE AUDIENCE:**

Mr. Nelson Kletzli of 168 Greenlea Drive said that next Tuesday is the big day where we get to exercise our right to vote. In being out in the community, he has heard people say they have forgotten about a lot of things so he would like to review things that have happened here in the Township. He wants people to use their right to vote. Since he is a part of the Moon Advocates for Community Safety, the biggest thing is the Fairweather Lodge that the Supervisors let move into the Township. If anyone in the community wants to know what went on, he encouraged them to go onto MCA-TV. Every Supervisors meeting is there and everything is documented. He has several questions with regard to Wal-Mart. He asked if anyone on the Board knows how much money was spent to fight something that is going to happen anyway. What is really wrong with replacing a dilapidated shopping center with a new shopping center? How much money in revenue has the Township and the school district lost because Wal-Mart has not opened there and generated dollars. If we all knew those answers, it would be rather staggering. His next question pertains to Marcellus shale. He hopes that the Board does a better job of handling Marcellus shale than they did handling the Fairweather Lodge and Wal-Mart. We have two completely wide swings—we do nothing or we do everything. He thinks we should come together and do something. Everyone please go out and vote.

**REMARKS FROM THE SUPERVISORS:**

Dr. Mills said that the subject of Marcellus shale is important for our residents. For the past several months, the Moon Township Planning Commission has been addressing revisions

to our existing ordinance. At the Planning Commission's last meeting, they asked the solicitor if we can ban Marcellus shale drilling. He said no. We asked our solicitor if we can limit drilling to our industrial sites, and he said no. They then began the discussion of what we can and what we cannot do. The solicitor's advice is that we must follow a "template" with a designated percentage of land use. But no one seems to know what that percentage is. So we are looking into that to find out what we can and cannot do. The issues surrounding Marcellus shale are controlled by the State Legislature and the Governor. We are being held hostage by some unwritten notion of what we can and cannot do with an ultimate punishment of a lawsuit from the gas companies. The truth lies with our legislators and the Governor. She is not pleased with the threat of a lawsuit and does not think that there is any place in Moon Township that is suitable for drilling. You are invited to join the conversation and find out what impact fees are really about. She asked residents to review the following State bills: John Pippy's bill S.B.1100 which has been superseded by House Bill H.B.1950. The House bill is even more stringent than the Senate bill. H.B.1950 overrides and replaces all local ordinances and would make a State-wide zoning ordinance the rule of the State. Today the House Finance Committee voted on this bill and passed it. It should be before the State Legislature very soon. Should we allow the State Legislature to control what we do in our own community? She encouraged people to call State Representative Mark Mustio for an update on the legislation. Stand up for Moon Township.

Mr. Gribben said that he and Dr. Mills think along the same lines. Marcellus shale is the hot topic for next year. We will all need to do a good deal of research and learn what happens on a drill site and how that whole process works. He has visited a drill site and did some research and it is an industrial and noisy process. It will take much investigation and he is excited to learn more about it in this upcoming year.

Mr. Eicher said that Tuesday is Election Day. As residents, it is your opportunity to speak. It is your Township and your elected officials. He encouraged everyone to take a few minutes on Tuesday to cast their vote.

Mr. Sinatra said that he wanted to thank the veterans and also the young man for his part in Wreaths Across America. He is a veteran of the Marine Corps and Mr. Eicher is a veteran of the Air Force. These people make a lot of sacrifices and we have to support them. The Eagle Scout candidate that was here this evening has a good idea and it will be very successful. With regard to Marcellus shale, there is no viable spot in Moon Township where we can do this drilling and still protect our roads and protect our citizens. As a Board we need to come together and protect our citizens a lot better than we have in the past. With regard to Wal-Mart, just developing a better relationship with the business community as well as with Robert Morris University should be a goal. We are competing with different municipalities such as Cranberry and Upper St. Clair who are growing. We need to market our Township and bring in businesses, grow these businesses and open the lines of communication with our businesses, both large and small.

Mr. Vitale said that he too would like say to go out and vote. It is a privilege that citizens need to take advantage of. He wished everyone a Happy Thanksgiving.

There being no further business before the Board, the meeting adjourned at 7:43 p.m.

Respectfully submitted,

Janet L. Sieracki  
Assistant Municipal Secretary