

**5:30 PM – 2<sup>nd</sup> Quarter 2011 Budget Review**

**MINUTES**

The Workshop Meeting of the Moon Township Board of Supervisors was called to order at 6:00 p.m. with the Pledge of Allegiance to the Flag, Chairman Jim Vitale presiding. Supervisors present: Jim Vitale, Andy Gribben, Marvin Eicher and Frank Sinatra. Also present: Jeanne Creese, Jeff Ziegler, Lisa Lapaglia, Dana Kasler, Tom Connelly, Meghan McNamara, Blaine Lucas, Mal Petroccia, Chris Prisk, Bill Napierski, Tom Arnold, Kim Lawrence and Jenna Staul.

**Public Comments on Agenda Action Items:**

(There were none.)

**General Comments from the Public:**

Tom Arnold said that he heard on the news that there is a house in Moon Township that that has not paid taxes from 2004 through 2011. Over \$50,000 was lost in unpaid property tax. Taxes were paid on the land but not on the house. He feels that someone should look into that. Ms. Creese said that she heard about the news report. The Township Planning Department was contacted for a copy of the occupancy permit. The way that a property gets on the tax rolls is the Township provides copies of occupancy permits to the County when the house is constructed. The County assesses the property and puts it on the tax rolls. For the property to be on the County, local and school district tax rolls is a function of the Allegheny County Assessment Office. The County is looking into the matter.

**Action Items:**

1. Mr. Vitale called for a motion to approve/deny a bond reduction for Moon Flight Car Wash in the amount of \$88,200.00 per Baker letter dated 8/22/2011. Motion to approve made by Mr. Sinatra and seconded by Mr. Gribben. Mr. Sinatra asked the amount of the bond reduction left. Mr. Petroccia said that this reduces the bond to zero. All of the bonded work has been completed. All Supervisors present voting yes, motion carried 4-0.
2. Mr. Vitale called for a motion to approve/deny a resolution for the RMU School of Communication & Information Systems / Media Arts sewage planning module. Motion to approve made by Mr. Sinatra and seconded by Mr. Gribben. Mr. Petroccia said that this has already been approved by the Municipal Authority. The Township also has to approve it. All Supervisors present voting yes, motion carried 4-0.
3. Mr. Vitale called for a motion authorizing the Township Solicitor to execute on the performance security instrument(s) for the Breezewood Plan of Lots and Sunridge Plan of Lots as a result of the failure of the Developer to complete construction and installation of the required improvements pursuant to the terms of the Developer's Agreement dated March 8, 2001. Motion made by Mr. Sinatra and seconded by Mr. Gribben. Mr. Eicher asked for an explanation of this motion. Mr. Lucas said that we have been trying to reassemble the pieces of the puzzle concerning this development. There is a developer's agreement and staff found a copy of the bond and addendum. There

have been some discussions between a developer interested in doing part of that plan and the Township. He thinks it would be advisable to attempt to track down the bond as it may benefit both the Township and the developer. Given the incomplete paper trail, we do not know the issues that might arise. The only way to find out is to make the attempt. The potential developer is eager to move forward quickly and is working with the staff and Township Engineer on a new developer's agreement. He does not see any downside to making the demand on the bond. He asked Mr. Petroccia the estimate of the work that the new developer has indicated that he is willing to do. Mr. Petroccia said that the new developer has proposed about \$50,000. There are a number of things that he did not include in the improvements that we would like included such as a portion of the stormwater management system, topcoat of the road, sidewalks in front of the lots, and lighting. If the developer would agree to do those improvements, Mr. Lucas said he would recommend entering into a new developer's agreement. But by doing so might hurt the bond claim. It makes more sense to go after the bond first. A discussion ensued on the posting and enforceability of bonds. Mr. Lucas said that bonds do not typically have expiration dates. What do have expiration dates are letters of credit or set-aside agreements with the bank that the Township has to accept. If you are coming up on an expiration date the Township should be in a position to say that that it is exercising its rights under that letter of credit and making a draw because the project is not done yet. After discussion, Mr. Eicher said that we as a Township have to make sure that whenever we approve a development that is going to be bonded that we are sure that the bond will be in effect until we release it when the developer has met his obligations. Mr. Lucas said that there is nothing on the face of the bond that would lead him to believe that the bond is not valid. But with the passage of time, we may not be privy to a paper trail that does not exist. The best form of security for the Township is not a bond but an irrevocable letter of credit. All Supervisors present voting yes, motion carried 4-0.

**Discussion Items:**

**Parks Department:**

Mr. Kasler said that Blaine Lucas's office put together an easement agreement for the Moon Park trail. We are requesting Board approval to move forward to get it to the Weaver family trust. This is property adjacent to Moon Park that is needed for completion of construction of the trail. Ms. Creese said that at this point the family has not yet agreed to this. We are not asking the Board to approve the easement; just to look at it and authorize staff to negotiate. The Board agreed.

**Planning Department:**

Ms. Creese introduced new Planning Director Tom Connelly.

**Wal-Mart HOP** – Ms. Creese said that the application for the highway occupancy permit by Wal-Mart was submitted earlier this month. A copy of the transmittal letter was in the Board's Friday packet. A copy of the plan is available for the Supervisors' review. The Planning Department has a copy and Township Traffic Engineer Chris Prisk also has a copy. At this time we have had one group inquire about the highway occupancy and the traffic plan. She was contacted by Sharon Presbyterian Church that is located on Carnot Road with concerns that the traffic improvements from Wal-Mart would block their entrance driveway. She met with them, showed them the traffic plan and addressed

some of their concerns. Sharon Church still had some concerns about the traffic movements and counts during certain times of the day and the impact on Carnot Road. A site meeting was held yesterday and those movements and times of day will be further examined by the Traffic Engineer to determine if those particular times of day will be of concern. They did have a request of the Supervisors to ask Wal-Mart and PennDOT to make a possible change to the intersection from the middle of Carnot Road to the new Wal-Mart to restrict it to only left- and right-hand turns and not permit through traffic from Carnot Road into Wal-Mart. She informed them that this particular movement has likely been asked for and answered on several different occasions and would cause changes to the signal movements on University Boulevard. It has probably been denied repeatedly. They may request subsequent meetings with the Board of Supervisors. Mr. Prisk said that he was able to look at a few of the issues that were discussed in the field. He verified that the median will not restrict the driveway at Sharon Church. There was also concern about the sight access of the new Wal-Mart signal for traffic turning into the church driveway. Based on the Wooster study, he determined that there is approximately 400' from the stop bar to where their driveway would be and should not be a concern. They were also concerned about traffic coming down Carnot Road to access the University Boulevard signal blocking their driveway. Mr. Prisk said that there is no analysis in the report regarding this intersection that he can use to answer that question. Ms. Creese explained some of the other traffic movement concerns expressed by the church. The Board's authority at this point seems to be limited to Carnot Road and local ordinances. Mr. Eicher said that when he made the motion for conditional approval, he included a condition that they also look at Carnot Road. Wal-Mart took that to court and the Judge ruled in their favor and this Board chose to accept that. We are wasting our time now to even look at it. We have nothing left to argue. All Wal-Mart needs is the HOP from PennDOT. Ms. Creese said that one answer she gave them was about the one-year post-construction traffic study. The study will evaluate if the signals cause the traffic to back up. A discussion ensued on the Carnot Road traffic flow. But Mr. Eicher said to have the traffic engineer look at the intersection at this point would be a waste of time. His question is now "who owns Carnot Road?" Has PennDOT in essence taken over Carnot Road? The HOP addresses Carnot Road and the Judge said we have no jurisdiction over Carnot Road. Mr. Lucas said that Carnot Road belongs to the Township. Wal-Mart was obligated to undertake certain improvements but the road is still the Township's. A discussion ensued on whether Carnot Road is a part of the HOP. Mr. Eicher questioned whether PennDOT was being asked to approve stormwater management on Carnot Road. Mr. Prisk said that he was unsure of that as he has not reviewed the stormwater management. Ms. Creese said that some of the businesses along Carnot Road and particularly the church may not have been fully aware of the review process for Wal-Mart and this intersection and are just now catching up.

**Montour Run Road / Park Manor Boulevard / Montour Trail Crossing** – Ms. Creese said that this matter was before the Board several months ago and she wanted to bring it up again. Some time ago, the Montour Trail received grant money through Representative Mustio's office for pedestrian improvements to the crossing and signalization at the Montour Run and Park Manor Boulevard crossing. The improvements are for signalization changes and additional ramp striping. In order for them to achieve what is provided by the grant, the Township has to submit the signal modification. Moon Township owns the signal at that location. We do not pay for maintenance of the signal, however, under an agreement that was entered into at the time the intersection was constructed. Robinson Township pays for the signal

maintenance. The Township has met with PennDOT who has seen the plans and approved the project. However, the signal modification permit still has to be submitted. She and the traffic engineer have met with Robinson Township who also supports the project. She is requesting authorization from the Board to have Kimball do that work. A discussion ensued on the cost to do the work and the work that would be done. The Board had no problem with Kimball doing the work. Ms. Creese asked the Board to authorize the work by motion. Mr. Sinatra made a motion to approve the scope for performing traffic signal modification/improvement on Montour Run Road and Park Manor Boulevard at a cost not to exceed \$5,900. The motion was seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 4-0.

### **Finance Department:**

**Capital Purchases Report** – Ms. Lapaglia said that the Board should have received their capital purchases report in their recent packet. There was one item listed that did not have an account number and she explained why. The invoice was from MicroSoft Office Pro Plus. It is anticipated to have the invoice before the next meeting. The other item she wanted to point out was the Finance Department has written four checks out of the capital reserve fund following the listing that she sent to the Board. Those checks will be included on next week's check register. She gave details of the four checks that were written.

**Board Vacancies** – Ms. Creese said that there are still vacancies on some of the Township Boards. Mr. Vitale said that he received a request from the Historical Architectural Review Board to increase the number of members on this board. There is currently one vacancy on the HARB board. He felt that since it has been difficult to fill seats on this board in the past, we may want to wait until a recommendation for candidates is received from HARB. Ms. Creese said that she has directed Mr. Connolly to work with the HARB to review their ordinance for updating as well as some other projects they are working on. There are also vacancies on the Parks & Recreation Advisory Board and Environmental Advisory Council. There needs to be some clarification by the solicitor as to whether a vacancy exists on the Moon Transportation Authority. Mr. McLaughlin did not resign from the Transportation Authority and the enacting legislation may need to be examined. Mr. Lucas said that question should be answered by examining MTA's articles of incorporation. After discussion, the Board felt that someone should get in touch with Mr. McLaughlin to see what his intentions are and if he planned on resigning from the MTA.

**Board of Supervisors Vacancy** – Ms. Vitale asked Mr. Lucas to explain what the remaining Board members' position needs to be to fill the vacancy on the Board of Supervisors. Mr. Lucas said that the Board needs to make an appointment this evening. He explained that under the Second Class Township Code the Board of Supervisors has 30 days to make an appointment to an elected position on the Board that becomes vacant. Three votes are required just as any other action the Board takes. If the remaining Board members are deadlocked and cannot reach a decision, then the Vacancy Board would be convened. The Vacancy Board consists of the four remaining Board members and the chairman of the Vacancy Board, who the Board appointed at their Reorganization Meeting in January. The 30<sup>th</sup> day following Mr. McLaughlin's resignation is today. Unlike other personnel matters, appointment to elected positions cannot be discussed in executive session. Mr. Vitale said that letters of interest in this

vacancy have been received by the Township. He will put forth each name and ask for a motion and second on each name under consideration. Ms. Creese said that five letters of interest have been received. The names include (in alphabetical order): Allan T. Bross, John A. Hertzner, Nancy Patton Mills, William Napierski and Edwin Nelson. Prior to calling for any motions, Mr. Vitale asked if the Board had any comments or discussion.

Mr. Vitale called for a motion for Allan Bross. Motion for Allan Bross made by Mr. Eicher and seconded by Mr. Gribben.

Mr. Vitale called for a motion for John Hertzner (there was none).

Mr. Vitale called for a motion for Nancy Mills. Motion for Nancy Mills made by Mr. Sinatra and seconded by Mr. Vitale.

Mr. Vitale called for a motion for William Napierski. Motion for William Napierski made by Mr. Sinatra. There was no second.

Mr. Vitale called for a motion for Edwin Nelson. There was no motion or second.

Mr. Eicher made a motion for John Hertzner. A discussion ensued on whether a Supervisor can make more than one motion for appointment. Mr. Eicher said that he believes that under the circumstances of this being an election year and since the appointment is for the remaining three months of Mr. McLaughlin's term that the Board should not appoint one of the candidates running for election. Mr. Sinatra said that he agreed with that. After discussion of the nomination process, Mr. Vitale said that he agrees with Mr. Eicher's comment. If one of the candidates being considered is running for election this year, the appointment would give them an unfair advantage. At this point, we have two candidates with a first and a second—Allan Bross and Nancy Mills. Mr. Vitale called for a roll call vote for these two individuals. Mr. Eicher and Mr. Gribben voted for Allan Bross; Mr. Sinatra and Mr. Vitale voted for Nancy Mills. Since the Board was deadlocked, Mr. Eicher recommended that the Vacancy Board be convened at next Wednesday's regular meeting. Ms. Creese said that tomorrow she would make sure that the chairman of the Vacancy Board is available for next Wednesday's regular meeting. The meeting of the Vacancy Board will be advertised.

**September 11, 2011 Fire Department Memorial** – Ms. Creese said that she wanted to make sure that the Board members received their invitations to the Fire Department/ Township memorial ceremony scheduled for September 11 at 10:00 a.m. The ceremony should take approximately one hour. There will be various speakers from the community representing public safety, the military, and the airline community. She showed the plaque that will be placed on the segment of the World Trade Center that was donated to the Fire Department and the Township. If any Board member is planning to attend, they can let her know.

Ms. Creese went over with the Board those items that will be on the September 7, 2011 regular meeting agenda. There will not be many action items for the Board's consideration. Mr. Eicher suggested that the entire Moon Area School Board be invited to attend the meeting where the Moon Township Police Department is recognized for cooperating with the school district.

**Township Solicitor:**

Mr. Lucas said that everything in his report will be covered during the Township Engineer's portion of the agenda or during executive session.

**Township Engineer:**

**Autumn Woods Landslide** – Mr. Lucas said that as the Board knows this has been ongoing for some time and the slide keeps getting worse and is now encroaching on Flaugherty Run Road and threatening the roadway. The Township has some remedies available to it, but it could be very costly to pursue and may or may not be successful. The DEP has an interest in this also. The hope was that process would play out in a way that would resolve the issue. As of the end of June/beginning of July, that was the way it looked like it was going. The developer's executed consent order with the DEP contains some penalties that he has to pay and provides that some interim remediation work to stabilize the hillside should commence no later than August 1 and be completed by October 15 but then later deferred until November. In the spring when the weather improves the Phase 2 the more permanent work would take place. That work has to be completed by July 15. But on August 1 nothing was happening. In consultation with the Township Manager and Township Engineer he communicated to the developer displeasure that the work had not yet occurred and would be bringing this to the Board's attention for potential appropriate action. This action could include two things. The first option is to authorize the appropriate Township officials (staff, Township Engineer and solicitor) to initiate a variety of enforcement actions for violation of the zoning ordinance, the subdivision and land development ordinance, stormwater ordinance and grading ordinance with substantial daily fines. The other possible remedy is to draw on the Dollar Bank letters of credit. The challenge on this point, however, is that if the Township decides to draw on that money, are we going to contract with someone to go in and do the work. But there is a risk of liability on the part of the Township if we do that. Mr. Lucas wrote a letter to the developer dated August 22 outlining all of these concerns. Mr. Petroccia said that Mr. Lucas' letter accomplished what it was intended to do. It got the DEP out to look at the site and see that there was no work being done on the site. Mr. Chickini informed him that he verbally entered into a contract with Forbes Excavating who has experience in remediating similar slides. Mr. Chickini said that Kimball came in much too high on their oversight proposal and he selected Pennsylvania Soil & Rock to do oversight of the construction. Mr. Chickini had problems meeting the DEP schedule and the penalties associated with not meeting that schedule. Mr. Chickini needs a loan from the bank to make this all work. Mr. Chickini expects to have his loan in place by September 6. He informed Mr. Petroccia that he will be signing his contract and mobilizing his contractors the end of this week and early next week. They will start construction activities by the end of next week. Mr. Petroccia said that he feels the schedule is a problem as Mr. Chickini only has about six more weeks of good weather in which to work. Hopefully, the hillside will be stabilized for the winter. Mr. Lucas said that he feels that it is important for the Township to see a signed copy of the contract for the work.

Mr. Lucas said that the Board's options are to let the DEP process continue to take its course. Another option would be to authorize the appropriate municipal officials to commence enforcement actions and draw on the letter of credit. He asked Mr. Petroccia if the amount in the letters of credit is sufficient to do all of the Phase I work. Mr.

Petroccia said that it was sufficient to do Phase I and stabilize the hillside. He described the work in Phase I. Mr. Eicher asked what we do if we draw on the letter of credit. Mr. Lucas said that is a dilemma. The Township is going to take over the road anyway. But if we draw on the letter of credit and contract with someone to do the work, then regulatory agencies will be looking at the Township and the Township will have some responsibility. That is a big concern. Mr. Eicher said that he agrees that would put the Township too much at risk if we do that and asked if the letter of credit has a deadline. Mr. Lucas asked if there is an expiration date approaching on the letter of credit. Ms. Creese said that there is; it expires at the end of September. Mr. Lucas said that what we need to do at a minimum is extend the letter of credit. If there is a refusal to extend by Dollar Bank, then the Township has no choice but to draw on that money. He asked if the Board wanted to indicate to the developer that if certain things do not happen, the Township will commence appropriate enforcement action. The Board felt that they did. Mr. Vitale called for a motion to authorize the proper Township officers to commence enforcement action against Newpointe Development in the event the remedial work set forth in the DEP consent order is not commenced on site on or before September 12 and a copy of the fully executed written contract for that work provided to the Township by that date. Motion made by Mr. Eicher and seconded by Mr. Sinatra. All Supervisors present voting yes, motion carried 4-0.

**Safe Routes to School** – Mr. Petroccia said that he has submitted drawings to the Township for review in the PennDOT format. Those need to go into PennDOT as quickly as possible.

**Foxwood Knolls** – Mr. Petroccia said that the contractor has completed all the drainage work along the road. Once the weather had dried out there was work to be completed along the top of the slope per his letter of last March. That work started last week without notifying us that they were going across Moon Township Municipal Authority property and cutting trees to do so. The work was stopped last Friday but they worked through the issues and the work will start again tomorrow. The work that is proposed is the substantial removal of sloughed off material, installing drains and bringing them down the slope and connecting to the drains they put in previously. The previously installed drains held up very well during the wet period. He thinks that what they are proposing to do will work well and he would like them to do it now when the weather is dry, giving the vegetation a chance to grow along the top of the slope. Despite a bad start he thinks Foxwood Knolls is on the right path. Mr. Eicher said that he feels the Township should have a set of sealed drawings and expressed concerns that the road could fail as it is basically the same hill as the Autumn Woods hillside. Ms. Creese asked the Board if the topography warrants the expense of us putting our geotechnical engineer on site there full-time. She informed Jim Henkemeyer and the Township Engineer that if they see anything at that site that warrants concern to call our geotechnical engineer. But we have the ability to put one out there. Our geotechnical engineer's advice was that he did not necessarily think it warranted being on site full time. He was more worried about the transfer of liability. Mr. Petroccia said that the developer's geotechnical engineer will be on site full time. Ms. Creese said that the Township did stop work one time last week based on the fact that we thought there was earth-moving activity going on without geotechnical oversight. Mr. Eicher expressed concern that he does not want this to be another Autumn Woods. Mr. Petroccia said that he would like to make sure that the work gets done correctly before it gets wet again. We will get sealed drawings and make sure that the road is stable both above and below.

**Sunridge Development** – Mr. Petroccia said that this matter has already been discussed. Mr. Lucas gave a good summary of the developer's agreement. The only thing he is working on is the allocation of the costs, especially with respect to stormwater management costs.

Mr. Petroccia said that Sonoma Ridge has come up as an issue with Jordan Court in their most recent phase. The issue is that there is a gas transmission line that runs through a portion of Jordan Court. The gas company wants a 15' buffer on either side of that pipeline with no utilities in it. That 15' buffer extends over to the sidewalk. Normally, the waterline would be in the area that they are prohibiting utilities being installed. What we are proposing to do is flip the waterline and the gas line. The gas line can be between the curb and the sidewalk. The electric and communication lines will stay where they normally are and the waterline will be closest to the house but still within the utility right-of-way. The lines would go all around the cul-de-sac so we would minimize the number of times that it crosses the transmission line. This has all been agreed to by the gas company. The one issue at this point is whether or not the Municipal Authority will have an issue with the lines being switched, but does not know why they should. He just wanted to bring this to the Board's attention. There are no ordinance issues; it is just a change from the standard detail. Mr. Eicher asked if this has been discussed with Jim Henkemeyer and John Scott. Mr. Petroccia said that it had and Jim had some minor comments. There will be a meeting at 2:00 p.m. tomorrow with all the parties involved.

Mr. Petroccia said that USA Concrete who did the sidewalk in Mooncrest sent in a letter releasing them from liability for the Riverside Concrete supplier which they had not paid previously. Their bond company arranged a settlement for that payment. There is no reason to hold their retainage any longer. He has received their request for payment of the retainage of \$28,057.75. A motion will be on next week's regular meeting agenda.

Ms. Creese said that there is also a letter in the Board's packet regarding the Mooncrest roof replacement project which was a CDBG project from the prior year. There were additional funds available and the SHACOG arranged for the funds to cover the Township's portion of the cost. These projects are usually a 50-percent match by the Township. This request for the additional funds was made by the SHACOG on the Township's behalf and subsequently approve. Mr. Eicher said he felt the Township should send Lou Gorski a letter expressing the Township's appreciation for his efforts on behalf of the Township.

Ms. Creese said that we had a public meeting scheduled for 5:30 p.m. this evening for a 2<sup>nd</sup> quarter budget update but did not have a quorum. The Finance Director provided the Board with copies of the budget reports. The Board can review the information and direct any questions to the Finance Director. We also had some information for the Board on the progress of the next bond issue. Mr. Ziegler said that he and Ms. Lapaglia have been in consultation with several financial advisors to refinance the 2005 and 2006 bond issues. The financial advisors were requested to provide us with debt structure schedules and scenarios that would restructure the Township's current debt as well as look at additional money that the Township could borrow. They were asked to look at parameters such as maintaining our current debt structure and not extending the term beyond five additional years. Interest rates have come down significantly and we are looking at possibly \$200,000 in savings. The message from the financial advisors is that we really should do this soon. The latest information he has been getting is that the

\$200,000 figure is now closer to \$400,000. The second part of this question is what we are going to spend the money on. The first step in this process is to hire a financial advisor. He asked if the Board wanted staff to move forward to do that or talk to the financial advisors themselves. Mr. Eicher said that his recommendation is to have staff select the financial advisor as he does not want to make it a political issue. Ms. Creese said that staff previously did an RFP for bond counsel. But there was some uncertainty about the projects on the list, in particular the repairs to the roof of the Community Service Center. Until we came to a decision on that, the bond issue was on hold. But bond counsel has been selected. Bond counsel gave us five recommended financial advisors, which was short-listed to three. Several others were added as they expressed interest and were from the area. Mr. Ziegler and Ms. Lapaglia have been interviewing and evaluating the firms and can make a recommendation to the Board. She would recommend that we focus on getting the best proposal and finalizing the project list. She will provide to the Board a list of the firms, their fees and references.

There being no further regular business before the Board, the Board went into executive session at 8:20 p.m. to discuss legal issues and personnel matters.

Respectfully submitted,

Janet L. Sieracki  
Assistant Municipal Secretary