

The stated monthly meeting of the Board of Commissioners of Lower Moreland Township was conducted on the above date in the auditorium at Lower Moreland High School. The meeting was also streamed via Zoom.

Vice President Kuritz called the meeting to order at 7:03 p.m. Present were Commissioners Hausen, Canale, Odhner, and Pace; Secretary/Manager Hoffman, Solicitor Rice, Engineer Woodrow, Traffic Engineer Dixson, Police Chief Scirrotto, Public Works Director Woerner, Code Enforcement Officer Schadegg, Fire Marshal Scholly, Assistant Manager Lee, Finance Assistant Simmons, and approximately two hundred citizens. Commissioner Sirken and several citizens joined via Zoom. The Pledge of Allegiance was recited.

COMMUNITY DEVELOPMENT COMMITTEE

Conditional Use Decision – BET Investments/Philmont & Tomlinson Roads #21-03 All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23.

The Board of Commissioners held a Conditional Use hearing regarding the BET Investments proposal on February 14, 2023. Commissioner Kuritz requested Solicitor Rice provide a summary of the hearing process and to detail what was in front of the Board this evening.

Solicitor Rice explained that municipalities in Pennsylvania are subject to the Municipalities Planning Code which dictates local procedures for zoning and land development matters. He then detailed the Township's zoning ordinance history from its original adoption in the 1950s to the most recent overhaul adopted in April 2014. Specific to the BET project, the property is located in the MU-REV zoning district which aligns with the Philmont Avenue corridor, an area with a mix of old industrial and business uses. The 2014 zoning amendment clarified the MU-REV district and also created the O-TOD overlay district near the two SEPTA train stations. The Township utilized several Montgomery County Planning Commission documents to guide this process, including a strategic plan and model ordinances. Solicitor Rice explained the O-TOD established certain stated goals, including providing a guide for redeveloping the Philmont corridor and providing a mix of commercial and residential uses as alternatives to the existing industrial buildings. He provided examples of development proposals and construction projects since this zoning was put in place, which notably the two projects farthest along in the planning process will generate zero school-aged children. Additionally, any Philmont corridor redevelop project ties into the Philmont/Pine/Tomlinson intersection improvement plan. The intersection improvements originally began as a Township-led improvement in conjunction with possible redevelopment projects, but PennDOT took over the project when it was placed on the Transportation Improvement Plan (TIP).

Solicitor Rice then provided an overview of the discussion procedure which will culminate with the Board voting on the Conditional Use decision. A conditional use, like a special exception or variance, only approves the use. The land development phase would still follow and no construction could begin even if approved. There are also several outside agency approvals for the applicant to pursue which can take more than a year to receive. He reiterated that the Conditional Use hearing took

place the prior month and the record had been closed. Based on the testimony and evidence from the hearing, the Board of Commissioners must make a decision. While there has been significant public feedback since the hearing, he advised the Board's decision must only consider the testimony on the record. Solicitor Rice mentioned this to highlight why the decision is not discretionary and must be made within the context set by the zoning ordinance and hearing record. Lastly, he recommended the Board manage its own destiny particularly when dealing with permitted uses. He also reminded the Board and community that the MPC requires municipalities to provide for all types of uses.

Solicitor Rice turned the floor back to Commissioner Kuritz to begin public comment. He reminded the public of the parameters for public comment and requested that each speaker limit their comments to three minutes. Commissioner Kuritz welcomed public comment at this time.

State Representative Nancy Guenst spoke in opposition to approving the conditional use. She inquired what the applicant's testimony suggested for the number of school-aged children to come from this development. Solicitor Rice answered that their study said twelve. Rep. Guenst suggested this answer was hysterical and to expect more. She said people want to come into Lower Moreland to get their kids into good schools. She stated that the Lower Moreland Township School District is not prepared for this and said the Board needs to take this into serious consideration.

Colleen Collins of 3206 Manor Road spoke in opposition to approving the conditional use.

Linda Kline of 3911 Pine Road spoke in opposition to approving the conditional use.

Joseph McGuckin of 339 Pepper Road spoke in opposition to approving the conditional use.

Judi Moss of 144 Byberry Road spoke in opposition to approving the conditional use.

Heather Psoras of 3302 Philmont Avenue spoke in opposition to approving the conditional use.

Anita MacPhee of 326 Brae Bourn Road spoke in opposition to approving the conditional use.

Alex MacPhee of 326 Brae Bourn Road spoke in opposition to approving the conditional use. Mr. MacPhee mentioned he was also speaking on behalf of neighbors from 157 Manor Road.

Kelley McGowan of 1144 Gantt Drive spoke in opposition to approving the conditional use.

William Lee of 292 Pepper Road spoke in opposition to approving the conditional use.

Jennifer McGuigan of 531 Pinney Road spoke in opposition to approving the conditional use.

Dina McCaffrey of 3267 Maple Road spoke in opposition to approving the conditional use.

Laura Calfayan of 3231 Maple Road spoke in opposition to approving the conditional use.

Chuck McDade of 2472 Dale Road spoke in opposition to approving the conditional use.

Mike Hoch of 3922 Bradford Road spoke in opposition to the project but acknowledged the zoning text amendment application from 2021.

Richard Moore of 1525 Heaton Hill Lane spoke in opposition to approving the conditional use.

Leonid Eberman of 2616 Bonnie Lane spoke in opposition to approving the conditional use.

Danny Wong 469 Long Lane encouraged the Board to use the tenants of Six Sigma to review this project.

Susan Simi of 2678 Pine Road spoke in opposition to approving the conditional use.

Sean Ferguson of 3665 Marquis Lane spoke in opposition to approving the conditional use.

Jannie Lo of 3906 Brookdale Avenue spoke in opposition to approving the conditional use.

Jason Szrom of 3500 Brae Bourn Drive spoke in opposition to approving the conditional use.

Mike Gannon of 3888 Shelley Road spoke in opposition to approving the conditional use.

Mike McKinnon of 527 Newell Drive spoke in opposition to approving the conditional use.

Abigail Lieberman of 530 Andrew Road spoke in opposition to approving the conditional use.

Meghan Keegan of 985 Carriage Lane spoke in opposition to approving the conditional use.

June Gordon 1315 Wright Drive spoke in opposition to approving the conditional use.

Angela Malave of 1003 Corn Crib Drive spoke in opposition to approving the conditional use.

Public comment was closed and Solicitor Rice reviewed the next steps for the Board of Commissioners. Options include denying or approving the Conditional Use. He then summarized the conditions in the draft adjudication. Solicitor Rice concluded his comments by advising the public of his belief that the Board of Commissioners takes comments seriously, but stressed this is not a discretionary decision. Commissioner Kuritz then requested questions and comments from the Board.

Commissioner Hausen began her comments by advising the public that BET Investments is a separate entity from Toll Brothers. She acknowledged there is much to be admired about the plan, including the stream restoration, parking garage, and reduced lot coverage. However, she reiterated her position that this proposed development is too big for this property on Philmont Avenue. Commissioner Hausen expressed concern about traffic, namely the timing of the building and roundabout construction. She also expressed that she does not believe the projected school-aged

student impact presented at the hearing and wondered if the Township's emergency services had capacity to handle calls originating from this proposed building. Commissioner Hausen proposed two additional conditions for the adjudication. First, no occupancy certificate should be issued until the roundabout is complete and confirmed to be operating as designed. Secondly, any additional children beyond twelve should require a payment to the Township and School District.

Commissioner Odhner stated the proposed project is in Ward 3 which he represents. He expressed frustration with the process itself being unfair to citizens. He also stated his concern with traffic on Philmont Avenue. Commissioner Odhner said his first priority when applying to be appointed to the Board of Commissioners, following Commissioner McQueen's resignation, was to protect open space. He mentioned interest in revisiting the open space earned income tax referendum from 2016. He concluded his comments by differentiating between the Board's legal obligations and the public feedback.

Commissioner Pace inquired whether Commissioner Hausen's suggested conditions had merit. Solicitor Rice advised the only impact fees available are for traffic if a study has been done to establish a local ordinance requiring them. There are also parks and recreation fees in the subdivision and land development ordinance. He reiterated that statewide efforts to permit school impact fees on developments of this nature have not made it through the legislature. Impact fees must have a legal basis to be included in the Conditional Use decision.

Commissioner Hausen referenced Article 10 of the zoning ordinance which includes general conditional use standards regarding public services and facilities. She thinks the Township is within its rights to deny the conditional use.

Commissioner Kuritz reiterated her question from the hearing if the conditional use can be denied because of concerns for the number of school children a development may generate. Solicitor Rice advised that a possible increase in school-aged children is not a legitimate legal basis for denying a plan.

An audience member attempted to ask a question away from the podium and microphone. Commissioner Canale asked the question on this individual's behalf. If the school-aged student projection from BET's testimony turns out to be incorrect, can the Township file a lawsuit against BET for providing incorrect testimony? Solicitor Rice opined this would not be successful.

Commissioner Canale then expressed that while he is frustrated by redevelopment, he takes the advice of the professional experts involved regarding traffic, school impact, etc. He understands the commissioners need to vote based on the facts presented.

Commissioner Kuritz anecdotally expressed her support for the community and that she hears the public's concerns. She stated that the Board takes the information presented during the hearing and tries to make the best informed decision. She also provided context for the zoning overhaul from 2014 and why multi-family residential is a permitted use on this site.

Commissioner Kuritz then explained that Commissioner Sirken was not able to attend the meeting in person. However, he had prepared written remarks which Manager Hoffman read for the Board and public. The remarks summarized why he supports this project and believes the applicant has met its obligations for the Conditional Use.

There were no further comments from the Board or public. On motion and second by Commissioners Kuritz and Canale, the Board of Commissioners approved the Adjudication and Order dated March 14, 2023, approving the conditional use application of BT Philmont LP for constructing 219 apartment units and 3,000 square feet of commercial and retail space, a two-story parking garage and related improvements. Commissioners Hausen and Odhner voted nay.

Extension of Review Period – BET Investments/Philmont & Tomlinson Roads #21-03 All

Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23 and a letter from the applicant's attorney dated 3-3-23.

Commissioner Kuritz stated that BET Investments submitted land development plans on December 21, 2022. Per the Municipalities Planning Code, the Township has 90 days to review and consider the plan unless an extension of review is granted by the applicant. The Board is in receipt of a letter from Julie Von Spreckelsen on behalf of BET Investments, granting the Board an extension through April 20, 2023. There were no questions from the Board or public and the extension was accepted as submitted.

Extension of Conditional Use Decision – Ridgewood/Philmont CC #17-04 All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23, a copy of a letter from the applicant's attorney dated 3-8-23, and a copy of a letter from the Township Solicitor dated 3-9-22.

Commissioner Kuritz stated that the Board was in receipt of a letter from Christen Pionzio on behalf of Concert Philmont LLC, requesting an extension of the conditional use decision by one year. Manager Hoffman added they received final plan approval, so this just being recommended in an abundance of caution. He recommends the Board make a motion to extend the conditional use decision by one year to March 31, 2024. There were no questions from the Board or public. On motion and second by Commissioners Kuritz and Canale, the Board of Commissioners unanimously approved an extension of the Conditional Use Decision through March 31, 2024.

Building Official's Report All Commissioners, the Solicitor, and Engineer received a copy of the Building Official's Report for the month of February 2023. Commissioner Kuritz reported on the Code/Building department's activities. There were no additional comments from the Board or public and the report was accepted as submitted.

Liaison Report Commissioner Kuritz stated that there will be no Planning Commission meeting in March and the next meeting is on April 27th. She reported that she attended the School District's DEI committee meeting and highlighted upcoming community events such as the Growing Greener Workshop and the Spring Egg Hunt.

INTERNAL AFFAIRS COMMITTEE

Minutes All Commissioners, the Solicitor, and Engineer received a copy of the minutes of February 14, 2023. There were no questions or comments and on motion and second by Commissioners Canale and Hausen, the Board of Commissioners unanimously approved the minutes for the month of February 2023.

Bill List All Commissioners, the Solicitor, and Engineer received a copy of the March Bill List in the amount of \$1,395,427.33. There were no additional questions or comments and on motion and second by Commissioners Canale and Hausen, the Board of Commissioners unanimously approved the Bill List for the month of March 2023.

Administration Report All Commissioners, the Solicitor, and the Engineer received a copy of a memorandum from the Township Manager dated 3-9-23 and a memorandum from the Assistant Manager.

Manager Hoffman highlighted three items for the Board. First, he is working with Public Works Director Woerner on the existing trash and recycling contract having seen recent bids in other municipalities with large cost increases. He will be meeting with Republic Services to discuss the two option years on the current contract. Second, Manager Hoffman advised of recent conversations with School District staff and HVAA board members regarding possible collaboration to improve athletic facilities along the Red Lion corridor. Third, he provided an update on the ongoing Township facilities review. This project is reviewing the Township's existing facilities and planning for the Township's future needs.

Assistant Manager Lee requested her report be accepted as submitted.

Bill Enriken of 410 Keats Rd inquired whether the recycling component of the trash and recycling contract is still profitable for the haulers and whether state grants are available for recycling programs.

Tax Collector's Report All Commissioners, the Solicitor, and Engineer received a copy of the Tax Collector's Report for the month ending February 28, 2023. There were no questions or comments.

Liaison Report Commissioner Sirken reported that he continues to attend school board meetings.

PUBLIC SAFETY COMMITTEE

Chief of Emergency Services Funding Agreement with Bryn Athyn Borough All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23 and a draft memorandum of understanding.

Commissioner Canale stated that the Bryn Athyn Borough Council and the Board of

Commissioners approved resolutions at their respective January 2023 meetings, establishing the joint position of Chief of Emergency Services. Those resolutions called for a separate funding agreement which is being recommended per the attached memorandum of understanding. The MOU creates a funding structure for Lower Moreland to cover 75% of expenses and Bryn Athyn covering 25%. There were no additional questions or comments and on motion and second by Commissioners Canale and Hausen, the Board of Commissioners unanimously approved the Chief of Emergency Services funding MOU with Bryn Athyn Borough as described.

Police and Fire Marshal Reports All Commissioners, the Solicitor and Engineer received a copy of the police report for February 2023 and the Fire Marshal's report for February 2023.

Chief Scirrotto detailed local crime activity, encountered over the past month, and provided updates on various cases being investigated. Chief Scirrotto and Lieutenant Smith, as well as several officers led by Officer Jamie Samuels, read to the kindergarten and first-grade classes at Pine Road Elementary during Dr. Suess Day. He referred residents to CrimeWatch for updates on current crime activities.

Fire Marshal Scholly reported on fire response activities by the Huntingdon Valley Fire Company and his own fire inspection/investigation activities. He added that the Library fire alarm system was upgraded and highlighted a new drone program, introduced at the monthly EOC training.

Liaison Report Commissioner Canale provided monthly updates for HVAA and the Huntingdon Valley Library.

PUBLIC WORKS COMMITTEE

Dragbox Paver Bid Award All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Director of Public Works dated 3-9-23.

Commissioner Pace reported that at the February meeting the Board of Commissioners authorized advertising a bid for the Dragbox paver included in the 2023 Public Works capital budget. The qualified low bidder submission was J. Pyott and Associates with a total bid of \$35,010. There were no questions or comments and on motion and second by Commissioners Pace and Canale, the Board of Commissioners unanimously awarded the contract to J. Pyott and Associates.

Public Works Department Report All Commissioners, the Solicitor, and Engineer received a copy of the Public Works Department monthly report.

Public Works Director Woerner reported that PECO plans to start another electric upgrade project. They will be working in Ward 6. He added that with Aqua finishing the Robin area water main replacement project ahead of schedule, they have pushed up their next project involving the Pond View, Michael, and Steven area. This will also include work on Pine Road and Red Lion Road. The Department has been able to continue roadside trash cleanups and will continue to do so as weather

and time permits. Additionally, the compost bin located in the employee parking lot of the Public Works facility is full and ready for any resident to pick up at any time. Musco lighting changed out all twenty-eight lamps at the HVAA turf field under the warranty and maintenance agreement. Lastly, Public Works staff has finished installing the team benches in the new dugouts at Lower Moreland Park.

Laura Calfayan of 3231 Maple Rd asked Public Works Director Woerner if the Township is eligible for reimbursement for trash pickup on state roads.

Liaison Report Commissioner Pace had nothing to report.

PUBLIC PROPERTY COMMITTEE

Pump Station Monitoring Proposal All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Director of Public Works dated 3-9-23.

Commissioner Hausen reported over the last several years, the sewer department has been investigating alternative monitoring and alarm systems for the eleven sanitary sewer pump stations and treatment plant. It is recommended that the Township use a web-based cellular monitoring device called OmniSite Crystal Ball to remotely monitor the pump stations. The new system will call, text, or email personnel to alarms 24/7 and staff will have the ability to remote into the system to check stations and enable and disable alarms. The total cost of this system will be \$92,120 and will be funded by the Township's ARPA funds. This item is available through COSTARS so no bidding is required.

There were no additional questions or comments and on motion and second by Commissioners Hausen and Canale, the Board of Commissioners unanimously approved the purchase of the OmniSite Crystal Ball monitoring system for the sanitary sewer pump stations and treatment plant in the amount of \$92,120.

Liaison Report Commissioner Hausen had nothing to report.

ORDINANCE COMMITTEE

Fireworks Ordinance All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23 and the advertised ordinance.

Commissioner Odhner reported that the fireworks ordinance has been advertised as prescribed by law, following the Board's authorization at the February meeting.

Bill Entriken of 410 Keats Rd asked what was included in the ordinance. Solicitor Rice clarified that the ordinance was necessary to bring the Township into compliance with the recently revised state law. This primarily focused on standards for where fireworks could be utilized on private property.

There were no additional questions or comments and on motion and second by Commissioners Odhner and Canale, the Board of Commissioners unanimously approved the following ordinance:

ORDINANCE NO. 771

AN ORDINANCE OF LOWER MORELAND TOWNSHIP AMENDING THE CODE OF ORDINANCES OF LOWER MORELAND TOWNSHIP BY ESTABLISHING REGULATIONS FOR CONSUMER AND DISPLAY FIREWORKS AND FIREWORKS SALES; AND BY PRESCRIBING PENALTIES FOR VIOLATIONS

A complete copy of the ordinance is attached hereto and made a part of the minutes of this meeting.

Zoning Hearing Board Alternate Appointment All Commissioners, the Solicitor, and Engineer received a copy of a memorandum from the Township Manager dated 3-9-23 and a proposed resolution.

Commissioner Odhner reported that Tim Weir is willing to continue volunteering as an alternate on the Zoning Hearing Board. There were no questions from the Board or public. On motion and second by Commissioners Odhner and Pace the Board of Commissioners unanimously approved the following resolution:

Resolution No. 23-07

A resolution authorizing the reappointing of Tim Weir to a new three-year term as an alternate on the Zoning Hearing Board, commencing March 20, 2023 and ending March 19, 2026.

A complete copy of this resolution is attached hereto and made a part of the minutes of this meeting.

Zoning Hearing Board Agenda & Decisions Commissioner Odhner announced the applications to be heard at the March Zoning Hearing Board meeting.

Commissioner Canale asked Solicitor Rice to comment on the continued Special Exception application from Artak Abgaryan at 106 Byberry Road to utilize the existing home as an assisted living facility for the elderly. Solicitor Rice stated he spoke with the applicant's attorney who advised they will begin their hearing at the upcoming meeting; however, the applicant will also need a variance from the requirement for public utilities which will require readvertising the hearing for the following month. Commissioner Canale recommended the Board send in a letter of opposition for this possible variance request. On motion and second by Commissioners Canale and Pace, the Board of Commissioners unanimously approved authorizing Solicitor Rice's office to send a letter of opposition to the possible variance request for 106 Byberry Road.

Liaison Report Commissioner Odhner reported on updates regarding the Pennypack Trust.

PUBLIC PARTICIPATION

Mark DeGeorge of 2414 Dale Rd thanked Engineer Woodrow for his efforts overseeing the additional landscaping at the Westrum project. However, he asked for Engineer Woodrow's assistance implanting the full plan details.

Adjournment There being no further business to come before the Board, adjournment was in order at 10:42 PM

Christopher R. Hoffman, Secretary