

## LEHIGH TOWNSHIP BOARD OF SUPERVISORS

### Minutes of the January 10, 2017, meeting

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, January 10, 2017, at 7:00 p.m. at the Municipal Building, 1069 Municipal Road, Walnutport. Present were Keith Hantz, Darryl Snover, Dell Grove, Rick Hildebrand and Cindy Miller, along with Attorney David Backenstoe, Phil Malitsch, and Alice Rehrig. Chairman Darryl Snover called the meeting to order with the Pledge of Allegiance.
  
- II. APPROVAL OF THE MINUTES
  - A. Minutes of December 13, 2016. Cindy Miller made a motion to approve these minutes. Keith Hantz seconded the motion. All voted aye. Motion carried.
  
  - B. Minutes of December 20, 2016. Cindy Miller made a motion to approve these minutes. Keith Hantz seconded the motion. All voted aye. Motion carried.
  
  - C. Minutes of January 3, 2017. Cindy Miller made a motion to approve these minutes. Keith Hantz seconded the motion. Rick Hildebrand noted that it indicates that he seconded a motion and he was not in attendance at this meeting. All voted aye. Motion carried.
  
- III. APPROVAL OF THE BILLS
  - A. General Fund Checks 20398 to 20458. Keith Hantz made a motion to approve these bills. Dell Grove seconded the motion. Cindy Miller commented that she objects to paying Invoice 146633 to Hanover Engineering regarding work done on the Cherryville Intersection HOP. She also wanted to question Check 20407 to DRC Technologies as to what it encompassed. Alice Rehrig commented that this invoice was for the work associated with an encryption virus. It included a complete wiping of all the systems and the rebuilding of the systems and data recovery. Cindy Miller questioned if the problem has been rectified. Alice Rehrig commented that it was. Cindy Miller commented that she feels that we need to hold all payments on work being done for the grant and review the bills so we can try to figure out what is going on because of what the Manager has reported. If we pay this bill, it means that we have almost expended all of our engineering funds for both grants. Where will we get the money to pay for the excess engineering expenses? She believes a major discussion is needed on this and believes payment should be held.

Keith Hantz questioned what our alternative is? Isn't this something that is needed to keep the project moving forward? Cindy Miller commented that we had \$75,000 budgeted in engineering for two grants for this project. If we pay this bill, according to Alice Rehrig's report, we will only have \$8,900 left in that line item to pay for engineering, and we have a way to go yet. She is not going to have this community pay for a PennDOT project. She was told that the \$75,000 was going to be enough to cover the engineering expenses and is very upset about this. She wants to see itemized bills as to why we spent this much money and we are not even near where we need to be on the intersection. She wants the Board to be aware of the position it leaves us in if we pay this bill. She knows she is not going to vote for reallocating money from somewhere else to pay for this intersection and have it come from tax payer dollars. Darryl Snover questioned if some of the cost overruns would be attributable to the changes the state inflicted? Cindy Miller commented that she doesn't think it should be that much, but this is why she wants to look at the bills. She doesn't understand how the engineering for just the 4<sup>th</sup> leg of the intersection should be that much. If this bill is approved, where are we going to come up with the rest of the money for this intersection? Her concern is that the \$75,000 that was included in the grant was supposed to cover all the engineering expenses. Phil Malitsch commented that both Cindy Miller's and Darryl Snover's concerns are valid. When designs change when you are in the middle of a project, it does cost money. The realigning of the intersection by PennDOT is a significant change. PennDOT is also requiring them to permit all the driveways that are within the approach of the Township's portion of the intersection. When he saw this invoice come across his desk, it did draw his attention and he does have Jim Milot going through the bills. They have no problem sitting down with Cindy Miller and the rest of the Board to go through the invoices. If there are adjustments that they can make on their end, they will be happy to do so, but a lot of it is attributable to the design changes that came from PennDOT. Exactly how much of the costs come from these changes, he doesn't know at this point. Keith Hantz amended his motion to approve all the bills with the exception of holding payment for Invoice 146633 from Hanover Engineering in the amount of \$20,022.31 for the work done on the Cherryville HOP project. Dell Grove seconded this motion. Cindy Miller also questioned Check 20409 to Eckert Seamans for professional services.

What exactly was this for. Alice Rehrig commented that this was the balance of the contract arbitration. All voted aye. Motion carried.

- B. State Fund Checks 1412 to 1414. Keith Hantz made a motion to approve these bills. Dell Grove seconded the motion. All voted aye. Motion carried.

#### IV. PLANNING RELATED ITEMS

- A. Release of Escrow—Grace Estates. Attorney Backenstoe reported that we now have two letters of credit. There is the existing letter of credit in the approximate amount of \$180,000 and we are now in a position to release all but \$70,000. We also have a new letter of credit in the amount of \$194,748.20 that has been issued for the 18 month maintenance period. The roads have been completed and Phil Malitsch has certified the monumentation which was the only outstanding issue. He believes that the Board is now in a position to accept the right-of-ways for Wood Drive and Del Drive.

Cindy Miller made a motion to accept the dedication of the right-of-way for Wood Drive and Del Drive. Rick Hildebrand seconded the motion. Keith Hantz questioned if this will help with the question that was asked at the last meeting regarding winter maintenance. Attorney Backenstoe commented that as of tonight, the Township would be responsible for the maintenance. All voted aye. Motion carried.

Keith Hantz made a motion to authorize the reduction of the original letter of credit and retain \$70,691.68 in that original letter of credit. Dell Grove seconded the motion. All voted aye. Motion carried.

- B. Engineer's Report. Phil Malitsch reported that he was told that the NPDES permit for the Maintenance Building was mailed out on Friday by the Northampton County Conservation District. This is a good stopping point to take a look at their budget and see where things are at and report back to the Board.

The HOP plans addressing PennDOT's comments for Cherryville will be submitted back to PennDOT in the next 10 days.

The coring has been completed for the weight restriction studies. The study should be provided to the Board in the next week or two.

Jake Schray is now handling the Zoning issues. If the Board is made aware of any situations, they can contact Jake directly.

The Planning Commission completed the zoning portion of the Cell Tower Ordinance at their last meeting. There are some minor adjustments that the Planning Commission solicitor will be making and then forwarding the ordinance to the Board for review.

V. OLD BUSINESS

A. Maintenance Building. There was nothing additional to report on this matter.

B. Cherryville Intersection

1. Acceptance of Right-of-Way agreement with Fire Company.

Attorney Backenstoe commented that this is an agreement whereby the Township will acquire additional right-of-way from the Fire Company as required by PennDOT. The sum that is being paid is in accordance with the appraisal that was done. Cindy Miller made a motion to accept the right-of-way agreement with the Fire Company. Keith Hantz seconded the motion. Keith Hantz, Dell Grove, Cindy Miller and Darryl Snover voted aye. Rick Hildebrand abstained because of his involvement with the Fire Company. Motion carried.

Attorney Backenstoe also reported that the Township is working with Mr. and Mrs. Bodish. Both have been cooperative, but Mr. Bodish has some concerns which are quite natural because the initial offer was more money because more right of way was needed, but now there is less right of way being required so the offering has come down. It is still in accordance to the appraisal that was done. There is also a concern regarding a possible water runoff issue. He, along with Cindy Miller, Alice Rehrig, and Phil Malitsch met with Mr. Bodish to discuss these concerns. Phil Malitsch is looking into this and is hoping to provide Mr. Bodish with some answers regarding his concerns. At that point, he is hoping that both parties will be mutually satisfied and he will be willing to sign the agreement. If they are unwilling to sign, the only alternative will be to take it by eminent domain,

even though the Township does not want to, because it is something that is required by PennDOT. The Township has been going above and beyond to work with Mr. and Mrs. Bodish to satisfy his concerns. Cindy Miller commented that she believes we will need to set a deadline for them to accept the offer because we are under a timeline with PennDOT and they will not issue the HOP without the right-of-way agreements in place.

VI. NEW BUSINESS

- A. Approval of Fire Company Activities. Keith Hantz made a motion to approve the Fire Company activities as presented in the January 2, 2017, letter from Roger Spadt. Cindy Miller seconded the motion. Keith Hantz, Dell Grove, Cindy Miller and Darryl Snover voted aye. Rick Hildebrand abstained because of his involvement with the Fire Company. Motion carried.
  
- B. Fire Company Utility Truck. Previously, the Fire Company had requested to shift around the order of the equipment that is being replaced because they wanted to replace the utility truck at an earlier date. As stated in an email from the President, they have reached a consensus as to the vehicle that they would like to purchase. It is available through the Co-Stars program from Koch 33 Ford. The total cost for the vehicle will be \$89,185.85 plus \$2,000 to Scribbles and Drips for the decals. This cost is well below the amount included in the Capital Improvements Plan. Roger Spadt was questioned who should be authorized to sign the order for the vehicle and who the vehicle should be titled to. The Board agreed that the Fire Company should be the one to sign the order and also hold title to the vehicle. Keith Hantz made a motion to release \$89,185.85 plus the \$2,000 from the Fire Truck Fund for the purchase of this vehicle. Cindy Miller seconded the motion. Keith Hantz, Dell Grove, Cindy Miller and Darryl Snover voted aye. Rick Hildebrand abstained because of his involvement with the Fire Company. Motion carried.
  
- C. Proposed Ordinance Amendment for Roadway Access. This ordinance came about as a result of a recent subdivision plan. There has always been the practice that lots should have direct access to a roadway. During the subdivision process, it was discovered that the wording was unclear and inconsistent between the Zoning Ordinance and the SALDO. This would

prevent the creation of land locked parcels of property. There were some other language adjustments made as well. By process, the ordinance needs to be reviewed by Attorney Backenstoe, put into final form and sent to the Planning Commission and LVPC for review before coming back to the Board for their approval to advertise. Keith Hantz questioned if this will make it more difficult or easier for Township residents. Phil Malitsch commented that it wouldn't make things more strict, but clears up the language. Either the Zoning or the SALDO indicates that you must have road frontage to a public or private street, the other is not very clear. The Zoning Ordinance does not allow shared driveways. Keith Hantz questioned how long the shared driveways were not permitted because he is aware of some shared driveways in the Township. Phil Malitsch commented that it has been in effect as long as he is aware. Keith Hantz noted that there is a shared driveway in the Stone Hill Estates development and that one is relatively new. Alice Rehrig commented that as far as she knew, each of the lots had their own access.

Cindy Miller made a motion to forward this ordinance to the Township solicitor for review. Rick Hildebrand seconded the motion. All voted aye. Motion carried.

- D. Tax Collector Compensation Resolution. Alice Rehrig noted that if there are going to be any changes made to the Tax Collector Compensation, they must be made by February 15. Cindy Miller questioned what the compensation should be in order to be comparable to what other municipalities are paying. Alice Rehrig commented that there is no consistency in how they are paid. Some municipalities go by a flat annual salary amount, others go by a percentage of what is collected, and others go by a per bill basis. This item was tabled for the Board to review the information and for Alice Rehrig to develop some recommendations as to what it should be set at.
  
- E. Police Report. Chief Fogel noted that in reviewing the end of the year statistics, the crashes have increased by 10%; proactive enforcement increased by 20%, which is impressive since a portion of the year they have been understaffed; arrests have gone down by 10% over the last two years. The calls for service were over 10,000 for the second year in a row.

The Chief noted that the department is still operating understaffed with three individuals being out injured. He is estimating that the Department will be much closer to being back at full staff by the end of the month.

- F. Manager's Report. Alice Rehrig reported that the latex paint recycling event that will be held at the Township's facility has been set up for July 1.

The Berlinsville light project will be starting in the next week or two. Alice Rehrig was contacted by Kriger Construction looking for a place to go with excess fill and millings. They would like to place them in the quarter midget parking area that was expanded a while ago. It is settled and uneven. He would like to level the lot out and then place millings on the lot leaving them with a nice level parking area. They will be submitting an engineer's drawing showing what they will be doing and also submitting it to Northampton County Soil Conservation for review and approval. She would like to have Phil Malitsch do a quick review of the plan just to make sure there is nothing that would create a problem for the Township. Darryl Snover questioned if there is any type of financial burden to the Township. Alice Rehrig commented that the only cost would be for Phil Malitsch to do his review.

Alice Rehrig wanted to make the Board aware of a situation where an individual started feeding stay cats several years ago and the amount of cats is close to 30. This individual has now passed away and the property is in an estate. The Executrix of the estate lives in Texas. The other daughters live in Colorado and New Jersey. The neighbors are concerned because of the nuisance that is being created by all the stay cats. She wanted to bring this to the Board's attention because this is going to be an ongoing problem for the area. She would like to work with Attorney Backenstoe to try to find a solution to this, but did want the Board to be aware because there will be additional time spent by Attorney Backenstoe. Cindy Miller questioned if the family was contacted to see if they can come and take care of the cats. Attorney Backenstoe commented that he did briefly talk to Alice Rehrig about this to come up with some ideas. We don't have an animal control officer who would take care of something like this. We don't have a contract with the SPCA. The will has not gone into probate yet. Alice Rehrig commented that the only contact she has is a first name

and a phone number of the individual in Texas. Attorney Backenstoe commented that the next step would be to get the information regarding the trust and contact them.

Sam Benner commented that he lives at 4291 Hawthorn Road and is one of the neighbors affected by these cats. His neighbor at 4271 Hawthorn Road started feeding the cats many years ago and he tried to convince him to reconsider what he was doing but the problem keeps getting worse.

Because of the nature of his neighbor, the neighbors have pretty much turned a blind eye to this matter. His daughters probably hadn't been to visit him in years so he used to go check on him. He knows that he has a revocable trust and his daughter who lives in Texas is the trustee. He has another daughter who lives in New Jersey and another who lives in Colorado. He has tried to take care of this matter himself, and ended up talking to an animal control officer from Carbon County who couldn't help him. But, she did tell him that her understanding was that because he was feeding them, they are his cats and are considered his personal property and part of the estate. She then told him to call the Center for Animal Welfare in Easton who told him to call the SPCA in Philadelphia if he suspected abuse. He called them and they told him that they can't come to Northampton County and he should call the Northampton County Dispatch, who called the Police. He spoke with the Police who told him their hands are tied but he may be able to trap them and to take them down to the Center for Animal Welfare. The Center for Animal Welfare told him that they do not have to take the cats because they are no longer part of the county and are a non-profit. He was given the name of the Northampton Animal Control Officer, Sue Henn, and then called her. Her eventual advice was to provide food and shelter for the cats. He keeps on going in circles. He would like to see the situation addressed humanly. He doesn't believe that we will get any help from the estate unless it will cost them money.

Attorney Backenstoe commented that we can try to find the information on the trust and assess fines against them until they do something about it. Darryl Snover questioned if there is a way for the Township to pay an

organization to come in and take the cats and then place liens against the property. Attorney Backenstoe commented that the Township may be able to do that, but we are not there yet.

Keith Hantz commented that he was given a contact name for an organization called No Kill of Lehigh Valley and was told they are willing to help resolve the problem. Mr. Benner commented that part of the problem that he has been running into is that most of the programs are in place to help the needy.

Darryl Snover also noted that he just recently read that there is a resurgence of rabies among the feral cat population and this could become a public health concern.

The Township will continue to try to work on this as they are permitted within the law.

- G. Solicitor's Report. Attorney Backenstoe reported that he received a call from Brian Tate from Paragram Builders regarding a lot that he is in the process of selling. It was discovered that a neighboring property owner didn't realize where the property line was and built a shed partially on this lot many years ago. When the development was approved, the developer placed a note on the record plan that stated that the shed was to be removed prior to the issuance of a certificate of occupancy for this lot and Lehigh Engineering was supposed to take care of this, but it was never taken care of. The problem is that Brian Tate now owns the lot and is trying to sell it, but there is this covenant on the lot causing him a problem. Unless the Board would have an objection, he would recommend that a motion be made waiving this covenant and that the shed doesn't need to be moved. There has been conversation with the owner of the shed who really doesn't want to move the shed right now because it was built on a slab and it would be expensive. The new buyers are aware of the situation and do not have an objection to the shed remaining on their property. If this shed was removed, it would destroy trees that they want to remain. Everyone agrees that they want the shed to remain which is why he is suggesting that a waiver of this covenant be granted by the Board.

Darryl Snover questioned who gets to use the shed. Attorney Backenstoe commented that is something that would be worked out between the owners as a civil matter. There has been full disclosure on this matter.

Keith Hantz made a motion to waive Covenant 33 on the site plan that requires the shed to be removed before the Certificate of Occupancy is issued. Rick Hildebrand seconded the motion. All voted aye. Motion carried.

- VII. PUBLIC COMMENT. Darryl Snover commented that he received a phone call from the Northampton Area Band Parents president. For two years in a row, the Big N Band has won competition championships, including the Cavalcade of Bands, Class A Division for the second year in a row with a score of 93.050 which is the highest in the school history. They also won special awards for best music, best visual, and best overall effects. They were interested in having local government bodies of the municipalities within the school district come to the next school board meeting and represent the Townships and congratulate them for a job well done. If there is no objection by the Board, he would be willing to represent the Township.

Ed Ziegler commented that in August, he had requested that the speed limit on West Mountain View Drive be reduced to 45 miles per hour and he had provided the Township with signs. Now he sees that the posted speed limit is 40 miles per hour and would like to see it raised to 45 miles per hour. He has been getting all kinds of complaints from the truck drivers. Chief Fogel commented that the speed study called for a speed limit of 40 to 45 miles per hour and his recommendation was 40 miles per hour because of the sight distance at Maple Drive and also with the bus depot being located at the top of the hill. There is also a lot of activity when the race track is in operation so the lower speed limit seemed like the more prudent thing to do. Cindy Miller commented that as a Supervisor and a resident of the community she is happy with the 40. There are other routes that the trucks can take.

- VIII. EXECUTIVE SESSION. The Board went into executive session to discuss a matter of potential litigation and personnel. No action was taken.
- IX. ADJOURN. Dell Grove made a motion to adjourn. Keith Hantz seconded the motion. All voted aye. Motion carried.