

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

October 8, 2024

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, October 8, 2024, at 6:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport Pa. 18088. Chairman Mike Jones called the meeting to order with the Pledge of Allegiance and roll call.

Present: Cindy Miller
Janet Sheats
Jerry Pritchard
Mike Jones
David Hess
Attorney David Backenstoe
Alice Rehrig
Mike Muffley
Scott Fogel
Frank Zamadics
Liz Amato

- II. 2025 BUDGET AND CAPITAL IMPROVEMENTS, the second draft of the 2025 Budget was presented to the Board.

General Fund

Based upon the information that was put together by the auditor, it appears as though the real estate taxes have returned to the average rate of collection, but Alice Rehrig was cautious when estimating the 2025 amounts. The interim taxes are more of an unknown because we don't know what the status is of the billing. The greatest effect on the revenues is the Cable TV Franchise. It has been steadily decreasing each year.

Police:

The additional training that Chief Fogel is requesting is for Mid-Atlantic Law Enforcement Executive Development. It is training for one of our current sergeants. It provides up to date training and information on management level procedures. They would need to apply to the school and be selected by the FBI to attend the school. The FBI would only select one sergeant to attend the school. The school is one step below the FBI National Academy classes. It also complements the Trilogy classes they currently have.

With regard to the AEDs, Chief Fogel spoke with the director at the Ambulance Company. They use the Striker LP 1000 AED. The price range for that brand of AED is \$3,229 up to \$5,219. Refurbished units were around \$2,000. The batteries for these AEDs are around \$800. The batteries for the model that the Department is currently using is around \$150. The units that the ambulance is using have a lot more things to it than the basic unit that the Department uses. As far as supplying the pads, they try to not give them out because if they were to give pads to every department, it would be quite expensive for them. The director also noted that the cost of oxygen has greatly increased and they do supply the Department with the oxygen. Based on the cost of the units and batteries, it wouldn't be cost effective to switch brands of AEDs for the sake of having compatible supplies.

Most of the Department's trauma kits are expired and should be replaced. They have been riding around in the trunks of the cars for the past six or seven years. Also, one of them has been ruined because of a fire extinguisher accident in the truck of the car.

Chief Fogel commented he and Alice Rehrig reviewed the required training overtime. The amount of overtime that is needed for firearms, defensive tactics, and taser certification is significantly more than what was budgeted which would be leading to overtime going over budget. If they were to try to do just a few officers at a time, they would be pulling someone from the road and would be generating overtime to cover the road. There is a benefit to having all the officers together for the training because they can also learn from each other. The optional training is worked into the schedule so as to not generate overtime. The amount of hours and the associated overtime cost has been adjusted in this draft of the budget.

The shredder listed under minor equipment can be removed. To get a shredder with the capacity that they need would be extremely costly. They accumulate the items that need to be shredded and either hold a shredding event or have them incinerated. Cindy Miller noted with the new system, there may be more documents stored in the cloud.

The lock out tools are needed to replace the old tools, some of which are broken. They are sometimes able to get parts to repair them, but he is in need of three new kits. Over time the rods get bent and the rubberized surface wears off. The wedge and air bladders are used the most.

The locker is needed because they are out of space. With the new officers and the amount of items that everyone needs, they need additional lockers.

The in car camera system is in need of replacement. One camera is being budgeted. Two of the cameras will be able to be replaced over a period of two years through the PCCD grant. There is also an outstanding grant for the replacement of the remaining cameras.

If the grant is successful, then the amount that is budgeted will be able to be used for a match. The current cameras are at the end of their life and are no longer supported. The units are no longer being built and the new software is cloud based which will save them time because the software has more capabilities and will allow them to send the video footage directly to the DA's office when needed. They will no longer need to burn cds or copy footage to usb drives. It can be either a link or an attachment to an email. Chief Fogel noted he is working on replacing the older camera before they completely fail.

The savings towards replacing the 2013 Truck is needed. The truck is starting to show signs of deterioration from being out in the weather and age. The goal would be to have enough money saved to pay for the truck by the time it is needed.

All of the Police Department computers will be covered by the gaming grant that was received.

The continued savings towards radios is working towards the new system that the County will be requiring. At this point, they haven't made a final determination as the specifics of the system. Some other departments have already purchased the P25 compliant radios, but the Chief doesn't see the need to do that until we know exactly what is happening. Right now, everything is working as good as it can in this area of the County.

Jerry Pritchard commented he would like to see proposals for generators for both the municipal building and the police station. Chief Fogel commented there is a concern with the department being without power because of communications and if there would be someone in the cell block. Alice Rehrig commented this may be a project that will need to be phased over two years.

Public Works:

Mike Jones questioned what type of truck was being requested. Frank Zamadics commented the pickup that he usually drives is up for replacement. He is waiting on two quotes. One would be a standard pickup truck with a plow and lift gate and the other would be a pickup truck with a Reading body, plow, and lift gate. The Reading body would allow the truck to be made into a service truck primarily for the parks. They would be able to keep all the park supplies with them. He would then use the older truck for himself. Both vehicles are being quoted with a gas engine. Until he receives the quotes back, he does not know what effect a Reading body will have on the capital improvements plan and how it will fit into the budget.

Janet Sheats questioned what the allowance for the public works building was for. Alice Rehrig commented it was an amount included for items for the building. One of the items they are looking at is work benches.

Planning and Zoning:

There was enough funding included for the completion of the zoning ordinance and SALDO updates based upon the proposal that was received.

Alice Rehrig also noted that the new zoning ordinance will most likely be completed in early 2025. She included additional money in the budget so that the new zoning can be included in the codified ordinances. She will most likely hold off on having the 2024 ordinances codified until after the zoning is adopted because some of the 2024 ordinances pertain to zoning and it wouldn't make sense to pay to update the ordinances and then have the entire zoning ordinance codified.

Recreation:

The cost of refurbishing the Danielsville tennis court was increased based on the current condition of the courts. Jerry Pritchard questioned if some of the money that was budgeted for the park development plans could be shifted to the tennis courts if need be. He feels the courts should be more of a priority than the plan because of the amount of use they get. He doesn't want to see two unfinished projects.

Cindy Miller commented she thought there was an issue with the tennis courts because of water. Frank Zamadics commented the base of the tennis courts appears to be compromised. He is not sure what type of base it has. It is also shaded by the trees and they drop all the leaves inside the court. The trees are actually overhanging the court. It maybe worth considering changing the location of the tennis courts. Another possibility would be to add drainage to the area of the courts. Mike Jones noted it could be expensive to move the lights if the courts are moved.

Jerry Pritchard commented someone had approached him and said the Berlinsville Courts are cracking as well. Frank Zamadics commented he will have to check on that.

Cindy Miller questioned if there was still money in the budget for the consultant to do the master park plan. Alice Rehrig commented she included the cost of the consultant in the 2025 budget. Even though we would be looking to get that started this year, the bulk of the expense will be next year. Jerry Pritchard questioned what the estimated cost of the plan would be. Alice Rehrig commented it is estimated at \$50,000. If there is any hope of further developing Delps, we need to have a master plan. Jerry Pritchard questioned if there was not enough money for the courts, couldn't some of the money from doing the plan be reallocated to the courts. Alice Rehrig commented it could be as long as it wasn't spent. Alice Rehrig commented at this point, we don't know what the

cost of the tennis courts will be. They need to be looked at by someone who repairs and installs them. Once the costs are known, it will be easier to determine how to fund it.

In addition to the generators, it was also noted that the sign in front of the municipal building could be replaced with a digital sign.

Library:

Jerry Pritchard questioned if the Township should continue with the same level of funding as they have in the past. Some of the other municipalities in the district do not give anything, but the School District gives a lot and that is coming from the same taxpayers. We are actually giving more than the Borough itself and it is located within the Borough. Janet Sheats commented she would agree the amount could be decreased. Cindy Miller noted the Board used to contribute \$8,000 towards the library and then a few years ago, it was cut in half. The Board agreed to leave the contribution at \$4,000.

Fire Tax Fund

The estimated amounts are about the same as last year, but Alice Rehrig does believe that the workers comp is currently on the rise. She has asked for a clarification from the insurance broker to make sure she is figuring it correctly. If the workers comp is rising, it will be reducing the amount of money available to go into the truck fund.

Cindy Miller questioned if there has been any update on what will be transferred over to the Fire Truck Fund. Alice Rehrig commented there was an issue with the March report and the current and previous collectors are approximately two thirds of the way through the month and are getting close to a resolution. Jerry Pritchard commented he spoke with Suzanne Hawke today and they are continuing to work on the report this evening rather than attending the meeting. Alice Rehrig commented the new tax collector bond came through yesterday. She was able to obtain a new bond at a lower rate which would be in effect for the entire 15 month term that Suzanne Hawke currently holds. The bond amount was also increased to \$750,000 which is more in line with what is collected during March and April.

State Fund

The estimated amount of State funding is \$4,500 less than what was estimated for 2024. The deicing salt has increased to \$81.40 per ton from \$73.00 per ton, but because of how well stocked the salt bid currently is, we probably will not need much more than the minimum requirement of 600 tons next year.

Looking ahead, if the budget is going to be adopted at the December 10th meeting, it will need to be finalized by the November 12th meeting. The other alternative would be to hold a second meeting in December for the adoption of the budget. In this case, the budget would need to be finalized by the November 26th meeting.

The next budget meeting will be held on October 22nd at 6:00 p.m.

III. APPROVAL OF THE MINUTES

A. September 24, 2024. Janet Sheats made a motion to approve these minutes. Cindy Miller seconded the motion noting an addition to the minutes. She would like it reflected in the minutes during the discussion regarding the newsletter article that the alternative article that was circulated to the Board was written by Alice Rehrig. Janet Sheats commented the newsletter article is listed on Page 9 of the minutes. Cindy Miller noted she was referring to the article that was not selected to go into the newsletter. Mike Jones commented he had asked Alice Rehrig to write that article. All voted aye with the correction.

V. APPROVAL OF BILLS.

A. General Fund Checks 28137 to 28167. Cindy Miller made a motion to approve these bills. David Hess seconded the motion. All voted aye. Motion carried.

B. State Fund Checks 1613 & 1614. David Hess made a motion to approve these bills. Cindy Miller seconded the motion. All voted aye. Motion carried.

VI. PLANNING RELATED ITEMS

A. Plan for Approval

1. Michael & Karen Haberern Minor Subdivision. Brad Rock was present to represent this plan. This is a three lot minor subdivision, but there is no building being proposed at this time. Lot 3 will be a 17.7 acre lot, Lot 2 is a flag lot that is 12.4 acres, and Lot 1 will contain the existing dwelling and driveway which will remain at 10.2 acres. The developer is requesting a deferral of the Recreation Land Fees until such time that a building permit is issued. The fee in effect at that time is what will be paid.

David Hess made a motion to defer the recreation land fees until such time as a building permit is issued. Cindy Miller seconded the motion. All voted aye. Motion carried.

Cindy Miller made a motion to grant this plan conditional preliminary/final plan approval subject to all the items listed in the Engineer's letter dated October 3, 2024, and the Planning Commission's letter dated September 10, 2024. David Hess seconded the motion. All voted aye. Motion carried.

B. Extension of Time for Approval

1. Blue Mountain Subdivision Lot 2 Land Development Plan. This plan received conditional approval from the Planning Commission; however, the surveyor, Rob Hain, was unable to complete the plan revisions and attend this meeting because he is on vacation. He did provide the Board with an extension of time until December 17, 2024. It is his intent to submit for final approval at the November 12, 2024, meeting. He is also available for the October 22, 2024, meeting if the Board prefers someone be present for the extension. Cindy Miller made a motion to grant an extension of time until November 30, 2024. Jerry Pritchard seconded the motion. Mike Jones questioned if the plan will be able to be completed by November 30th since an extension was granted until December 17th. Alice Rehrig commented the Board typically has extensions going until the end of the month. Since an extension was only granted until December 17th, November 30th would be the only date that would work. All voted aye. Motion carried.

C. Extension of Time for Recording

1. Sedler Design & Redevelopment LLC, Shanghai M & U International Trade Co. Joe Sedler and Pragnesh Patel were present to represent this plan. This plan was previously approved by the Board and is in need of extending the deadline to record the plan as it was supposed to be recorded by July 3, 2024. Mr. Patel commented he would like to get the plan recorded but was concerned with the amount of escrow that is required for the recording. Mike Muffley commented there is no public improvements with this plan, but there are stormwater improvements that are needed. There is a wall that is being proposed as part of the stormwater management plan. In the event that the development is not completed, the Township would not have an interest in constructing the wall. They would want to see the site returned to existing conditions. The cost to return the site to existing conditions is actually less than what would be needed for the construction of the wall. Mr. Patel questioned what would be required if he were to do stormwater management without the construction of the wall. Mike Muffley commented that would be a plan revision and a new plan would need to be submitted to the Planning Commission since the wall is part of the stormwater management plan for the land development and that would be a significant change to the plan.

Cindy Miller made a motion to extend the deadline for plan recording until November 30, 2024. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

VII. DEPARTMENTAL/ORGANIZATIONAL REPORT

- A. Recreation Report. Sandy Hopkins reported the tree lighting is coming along. The Fire Company will be helping them with parking this year. The tree lighting will take

place on Saturday, December 7. The Rec Board is planning on having an AG Day event on June 7, 2025.

Katherine Mack questioned if the rebuilding of the wall is still planned for this year. Jerry Pritchard commented the wall will be completed after baseball season is over.

- B. Public Works. Frank Zamadics reported the department spent the last 10 days moving into the new building. They are also working on improving the drainage system which goes between the old building and the new building. In addition, they have been hanging the Hometown Hero banners. The Legion Post is working on putting everything together road by road for them to make it easier for them to put up.

Cindy Miller commented one of the Public Works employees had requested a flag for the new building. She had contacted Representative Mako and his office provided a flag for the building.

Janet Sheats commented she had discussed having an open house for the public to see the new public works building with Frank Zamadics. They are proposing a date of November 12 from 1:00 p.m. to 3:00 p.m. The Board was in agreement with this date. Alice Rehrig will place this on the website.

David Hess questioned if there is a date for getting the lines painted on Cottonwood Road. Frank Zamadics commented we are on their list for painting. He will contact the line painters to see if they have a date.

- C. Zoning Report. Liz Amato reported in September, there were 43 new permits issued, 9 new complaints received, and one application to the Zoning Hearing Board for an accessory apartment which will be going to the Planning Commission in October and then to the Zoning Hearing Board in November.

Liz Amato also received notice from the Department of Labor and Industry that they will be conducting her five year accessibility audit on commercial projects on October 22. They will be going to five locations to make sure that all the accessibility requirements have been met.

Dan Ziegenfuss, 4116 Wood Drive, wanted to speak to the Board of Supervisors regarding the violation notice he received regarding the banner. Since the violation notice is not a zoning issue that can be appealed, he wanted to address the Board. Attorney Backenstoe commented a notice was sent out regarding a violation of the nuisance ordinance regarding public health and safety because there were structures erected in the Township right of way. Jerry Pritchard questioned if this is a matter for the Board of Supervisors or Zoning. Attorney Backenstoe commented under the

nuisance ordinance residents have to protect against and remedy any condition of safety, health, or hazard to any resident. The residents would have the right to talk to the Board if they want to have Liz Amato undo what she sent, but he believes that Liz Amato had very good reasons for doing what she did; she is the Code Enforcement Officer.

Dan Ziegenfuss commented he received a letter indicating that he is in violation of the nuisance ordinance. Liz Amato had explained to him that this was not a zoning issue, but a matter that was affecting public health and safety. To him, it feels like a very personal and discriminatory reach by Township officials. It is his understanding that someone made a complaint at a previous Township meeting, and the Solicitor at the meeting and the Board agreed that action should be taken against them. It is also their understanding that this is not a zoning issue even though zoning is being brought up because later when they spoke, Liz Amato had used some terms being pulled out of other sections. They believe if they put up a different banner, they would not be before the Supervisors. The Board confirmed they would be; it has nothing to do with the political nature of the banner. Mr. Ziegenfuss commented he is being threatened with 90 days in jail or up to \$1,000 per day in fines. If he leaves the banner up for 30 days, he could be subject up to \$30,000 in fines or up to 7.4 years in jail. There was no crime committed; there may be some differences of opinions. How will it work if they leave the banner up after their deadline? Attorney Backenstoe commented he believes the letter asked that the structure be removed immediately, but Liz Amato gave them the 20 days in accordance with the ordinance. If you don't take it down by the deadline, she can go to the Magistrate and file a claim under the Nuisance Ordinance. There would then be a hearing before the Magistrate. Mr. Ziegenfuss commented what is frustrating to him is that he cannot appeal it to zoning. If it was zoning, he would be able to file an appeal before the Zoning Hearing Board. Attorney Backenstoe commented if a citation is filed at the Magistrate and you are found guilty, you would have the right to file an appeal to the Northampton County Court of Common Pleas. Dan Ziegenfuss commented if they were hit with a zoning violation right now, he could appeal the notice to the Zoning Hearing Board which would most likely buy them enough time to get past the election. They are literally just asking to get to the election. He believes this is small government acting like large government during COVID—if you don't wear your mask or shut your business down, we will put you in jail. This banner has brought joy to many people. Liberals will be offended by everything. When are we going to stop conforming to the law and life and focus on our children's future? That is what the sign says, it says our children's future depends on your vote, Trump 2024. It doesn't say anything vulgar.

Cindy Miller questioned why it was put across the road without talking to the Township. Why not just put it on your property? She is not objecting to what the sign says, just why put it across the road? Dan Ziegenfuss comment he looked through the ordinance before purchasing the sign and couldn't find anything specific to the fact that you couldn't put the sign across the road. Apparently, there is not an ordinance from zoning specifically stating that which is why he couldn't find anything. Now, because people are complaining, they are being hit with this. Cindy Miller commented it is not because people complained that you were sent a letter. It is because there is a violation. Jerry Pritchard commented when people had stones in the right of way, we didn't tell them to move the stones. Liz Amato commented the individuals were told to move them and were eventually cited at the Magistrate. They received the same letter as what was sent to Mr. Ziegenfuss.

Mr. Ziegenfuss questioned in what ways they are harming public health and safety. Mike Jones commented if something were to happen to the sign, it could harm the public. There also is not supposed to be anything placed within the right of way. Mr. Ziegenfuss commented the Township has already placed the liability on him. The letter states that he will be liable is someone is hurt by that structure. The Township would not have any liability. Mike Jones commented the Township would still have liability. If one person can do whatever they want, then so can everyone else. The issue is that there is a violation because you can't place things within the right of way. If the sign was placed on your own property, there would not be an issue. Mr. Ziegenfuss noted when it comes to safety and things being within the right of way, there are trees planted in the right of way that someone could crash into, there are driveway pillars, concrete pillars, that are in the right of way. He has erected some of them. There are fences within the right of way. There are boulders and garbage cans in the right of way. They are all hazards located within the right of way so why are they being picked on. If there was no complaint, this wouldn't have happened. We need to stop nit picking at all the small stuff. There are utility poles in the right of way also. If someone hits the poles, their insurance company pays for it. He does not believe this would have happened if the sign did not say Trump or if there were no complaints filed. As he understands it, Cindy Miller gave someone the directions on how to file the complaint. Cindy Miller commented she didn't tell someone how to file a complaint. She told them they could file a complaint with the Zoning Officer. That is all she said. Dan Ziegenfuss commented if it didn't say Trump or a complaint wasn't filed, we wouldn't be here. Mike Jones commented people were calling because the road was partially blocked off. That was the first call he received. Dan Ziegenfuss commented people block roads when there is a yard sale. With the Hometown Hero banners going up, people are blocking the road to take pictures. Everyone who was putting up the sign is a professional in the construction business.

They coned the road off, traffic was fine, and no one was in harms way. Cindy Miller questioned how many calls the office received on this. Alice Rehrig commented it was quite a few, probably between five and ten over the phone.

David Hess commented he believes the main issue is that they are on telephone poles. Dan Ziegenfuss commented the poles are their own poles.

Janet Sheats commented at the last meeting she had stated she was concerned with safety. She then had stated to the individual who was asking about the banner that they could ask Liz Amato, but was then told that the Board eliminated the public being able to ask questions of the staff, and the only time Liz Amato could go out to look at an issue was after a complaint was filed.

Dan Ziegenfuss questioned if Liz Amato went out. Liz Amato commented she had seen the banner before she received a written complaint, but didn't send out the notice of violation until after the complaint was filed. Mr. Ziegenfuss questioned what Liz Amato was looking at when she received the complaint and if it was a zoning complaint. Liz Amato commented the sign was erected within the Township right of way which falls under the Nuisance Ordinance; however, it could also be a zoning matter. Mr. Ziegenfuss questioned if he could file an appeal with zoning since it is partially a zoning matter. Liz Amato commented she did not send it as a zoning violation so there is nothing to appeal.

Attorney Backenstoe commented the Township's issue is safety only. It has nothing to do with what is written on the sign. It could be a blank sign and be in violation. The Nuisance Ordinance is content neutral. It doesn't matter what something says. It matters where the sign is. He was informed that there were two poles or tree trunks which were installed in the Township right of way, about two feet from the Township road. He was also told that there is a banner that was strung across the road, in what he would call the view shed. This creates a dangerous situation. In issuing the notice of violation, the Zoning Officer is trying to protect the Township residents. A notice was sent out citing a violation of the Nuisance Ordinance, although she also could have also cited a violation under the Zoning Ordinance, but the Zoning Officer chose not to include this. The Township is not trying to pick on any individual. When Attorney Backenstoe was made aware of the situation, he reviewed other laws. The State law, Title 36 P.S. 670-425 states "It shall be unlawful to place any sign, banner, or advertising matter of any kind whatsoever on or across any State highway or on or across any structure within the legal limits of any State highway without first having obtained the written consent of the department. Any such sign, banner, or advertising matter placed without the consent of the department is hereby declared to be a public nuisance and may be abated by the department with or without notice." The State

would actually have the ability to go in and take a sign down. The State has almost the same language in their requirements as the Township does.

Dan Ziegenfuss commented that having the sign in the site view is safer than having the sign placed off the side of the road because you would have to turn your head, taking your eyes off the road, in order to read a sign that is along the side of the road. In addition, when he had the sign made, he was very adamant to the company that it would catch wind so there are wind slits and extra grommets. The sign company told him how to put it up to make it safe. They said to use carabiners in it and run a strap or cable through it. They bought stainless steel chain links that you can adjust. The sign is so structurally sound, it will never move, ever. If it was investigated as a zoning matter, it would be found that it is not dangerous. The straps they used are rated at 3300 pounds each and have a break strength of 10,000. There is a strap on the top and the bottom and are brand new. They are anchored into concrete blocks on both sides. The poles are in the ground and impacted around them. Other communities hang banners across their roads. Are they endangering their communities? Mike Jones commented if they are across State roads, they would have to get a permit; he doesn't know what the requirements are. Dan Ziegenfuss commented if the Township has a permit that he can apply for, he will do so. Mike Muffley commented typically, when a banner is going to be placed over a local roadway, the municipality adopts a resolution approving it. These signs are usually for community events or festivals. It would come in to the Board as an agenda item and voted upon and approved by the Board, making it an official sign. Any sign that is in the right of way and is not approved by the Board is not an official sign and the Township can remove it, with or without notice to the property owner.

Mike Muffley commented the real safety issue is that there are posts in close proximity to the cartway. If there is an errant vehicle and there is a crash, you have a post that was voluntarily put in the ground that created the safety concern. In those situations, there are PennDOT and federal criteria for evaluating obstructions in a roadway or right of way. Items such as barriers, guiderails, and jersey barriers are evaluated at an engineering level to decide if an obstruction is a concern that if an errant vehicle crashes into it, it is more of a concern for a vehicle to crash into the barrier than if it crashes into the object. Typically, you don't put vertical utility poles or posts within feet of a cartway. Mr. Ziegenfuss noted there are many poles within the Township that are feet from a cartway. Mike Muffley commented this is a situation where a new installation was made without the appropriate approvals or evaluations, and the Township is reacting to it. It is not an existing condition. Mr. Ziegenfuss commented everything is a what if. They are asking to just get past the election. He wishes he would have been hit with a zoning violation because then he could appeal it to get to the point where they need to.

Dan Ziegenfuss questioned how high above the roadway is the right of way. Attorney Backenstoe commented there are many Supreme Court cases which state that individuals have the right to put up any type of sign they want on their own property and you can't force them to take it down. It doesn't matter what it says or if there is vulgar language on it. By the same token, there is a lot of case law that says the Township should protect its interest when things are put up in their right of way. US Supreme Court Reed vs. Township of Gilbert in Arizona which stated the Township may forbid signs on a public property so long as it does so in an even handed content neutral manner particularly where traditional safety concerns are at stake. Commonwealth Court of Castopolas vs Zoning Hearing Board held that an ordinance that prohibited the erection or maintenance of projecting signs over public areas and mandated removal of the existing projecting sign at the expense of landowner was valid regulation. A ban on the erection or maintenance of signs projecting over public areas is a valid exercise of police power particularly where the ban is not a total ban since they are not prohibiting signs on private property. This is exactly what we have here. To address the issue of airspace, the Castopolas case talks about where signs or other devices project over the public property or encroach upon airspace over public property, the law is quite clear that municipalities may regulate them without regard to safety to the public welfare or morals and may do so under the theory that no one has the right to appropriate for himself what belongs to the public. The case goes on to say, he who asserts a right to maintain any structure extending over any part of a public street must show legislative authority for that right from the municipality. Attorney Backenstoe commented he does believe that there could be a liability to the Township based upon what the engineer has stated. If a car hits the posts, the Township could be sued because it is in the Township right of way. If the Township doesn't take any action in order to try to prevent that or remedy the situation, he believes the Township will be liable. He further thinks that if the Township knows of any danger and takes no action whatsoever, the Township's liability carrier may indicate that they will not provide liability insurance. He would be worried if someone did hit the poles and get injured, the Township could be held liable. If the Township's insurance carrier did not provide coverage and the Township was liable, the Township would end up paying the claim out of their pocket, which is taxpayer money. As the Solicitor, these are the things he needs to be concerned with. He has no objection to the sign itself; he just wishes it would be out of the right of way so the Township does not have the liability.

Dan Ziegenfuss commented there are so many what ifs and items in the right of way that we could pick on if we want. Let's just not pick on everything in a small community. They are just asking for a little more time. There could be safety concerns with everything. Life happens. We can't control everything. If you want to be concerned with safety, what about the people who put up large Christmas displays and people are pulling off the side of the road to look at them in the dark. That can be

a safety concern. They are trying to have freedom of speech here. This sign is very important for their children's future. Janet Sheats commented no one is stating that they have an objection to the contents of the sign.

Dan Ziegenfuss commented there was a white van going around sticking flyers from a Mr. Clark in mailboxes. The flyers were anti-Trump and almost threatening to the people who support Trump. This is a safety concern. Attorney Backenstoe commented this information should be provided to the police.

Mike Jones commented this is not about politics. It is about a structure being placed within the right of way. He understands there may be other items in the right of way, but once something is brought to the Township's attention, they have to act on it. Mr. Ziegenfuss commented the people who are making the complaint are liberals so it is about the content of the sign. If they wouldn't have complained, Liz Amato wouldn't have had to take any action. Cindy Miller noted it was more than just the people who were at the meeting. There were many phone calls. Janet Sheats commented this has nothing to do with what is on the sign. Her issue is safety. Dan Ziegenfuss commented he can understand that, but then should the Zoning Officer be doing an inspection to make sure it structurally has integrity? Cindy Miller commented Liz Amato consults with our Solicitor and he advises her. Mr. Ziegenfuss questioned if the Solicitor drove under the sign or just looked at pictures. Attorney Backenstoe commented he looked at a picture of it and consulted with the Engineer, particularly because of the two poles because they are in the right of way and the concern that an automobile may hit them. Dan Ziegenfuss questioned if it would still be an issue if the poles were located 14 feet off the roadway. Attorney Backenstoe commented the sign would still be within the right of way. If the poles and sign were located on private property, there would be no issue. There is case law regarding items in the right of way.

Barry Haydt questioned if this matter could be tabled until the next meeting to let everyone's heads cool off. Mike Jones commented the deadline is October 17 which is before the next meeting. Mr. Ziegenfuss questioned if the Board could grant an extension until then or issue a zoning violation so it could be appealed and he would have the extra time. Mike Muffley commented this is both a nuisance violation and a zoning violation. Even if a zoning violation were issued, the nuisance violation would still remain and that deadline would still exist.

Katherine Mack commented she heard Attorney Backenstoe comment it is both a nuisance and zoning violation. If it is zoning, wouldn't he have the right to appeal to the zoning hearing board. The definition of right of way that is being quoted is from the zoning ordinance. She knows Liz Amato interprets ordinances, but so does the Zoning Hearing Board. They review and adjudicate zoning issues. If it is both, does

he have the right to appeal to the Zoning Hearing Board? Attorney Backenstoe commented in this instance, he was cited under the Nuisance Ordinance. There is a procedure for that. If the matter is not corrected, it goes to the Magistrate for a hearing. If you are found guilty at the Magistrate, you have the right to appeal to the County Court of Common Pleas. Liz Amato used the definition from the Zoning Ordinance to further explain the violation. The violation is that there is a nuisance, a concern to the safety of the public, because there is something located in the Township right of way.

Jerry Pritchard questioned if the Board were to grant him an extension of time, the Board would be sitting with a liability if there were an accident. If there isn't an accident, maybe we would be sitting with a new president. If the Board would want to, could they grant an extension of time. Attorney Backenstoe commented the Board is the Zoning Officer's employer; they could over rule her.

Justin, who lives in the Township, questioned if the Board would have the ability to ratify the letter and the section so that rather than it being a nuisance ordinance, can they recommend that it be handled as a zoning issue, therefore, ratifying the letter that was sent, to zoning. You would still be covered because the Board would be taking the opportunity and action to do something. Attorney Backenstoe commented the Board is not supposed to direct the zoning officer; she is supposed to make an independent determination of violations. Justin felt it could be something that the Board could do since it is now being brought to the Board. Cindy Miller commented as a Board member, when it comes to legal, she is going to say please advise me or us as to what we need to do. What is your recommendation? The Solicitor is legal counsel and the Board is legally responsible for the residents of the community. If the Solicitor says, go ahead and do whatever, she may consider it. If he says the Township is liable, absolutely not, she will not agree with it. She will do what she is legally advised to by the Solicitor; that is why he is their consultant and he advises the Board for the betterment of the community, whether or not people like his position. That is why he is here.

Attorney Backenstoe commented he is certain that citing a violation of the nuisance ordinance is the proper citation. This is also a zoning violation. Even if they were also cited under the zoning ordinance, the two would run contemporaneous. The limits set forth in the nuisance ordinance would come up quicker and the sign would need to be removed within 20 days.

Dan Ziegenfuss commented it was stated that the Board is not allowed to tell the Zoning Officer what to do. Attorney Backenstoe commented a Board is not supposed to tell a zoning officer what to do; but in life, it does happen. The Zoning Officer is

supposed to go out and make their own determination based upon their observations or complaints they receive. The Board can bring a violation to their attention and they can go look at it. He does not think it is good practice of a Board to use the “bully pulpit” to ask the Zoning Officer to cite everyone they have a problem with. He does not believe this is a good practice. The Zoning Officer should make the determinations on their own. In this case, the Zoning Officer made the determination that this is a nuisance violation. Based upon what the Zoning Officer and the Engineer told him, he agreed this was an appropriate citation. Dan Ziegenfuss questioned if the Zoning Officer were to change the violation from a nuisance violation to a zoning violation, would that not show that the Township is taking action on the matter? Attorney Backenstoe commented he thinks it is difficult to unring a bell. She has now issued a citation for a nuisance violation. If she doesn't enforce it and files a zoning violation, and an automobile accident were to happen during this window, the Township is liable and potentially not covered by insurance because the Township didn't follow through on the first citation of the nuisance ordinance.

Dan Ziegenfuss questioned how soon after the 17th would he be cited at the Magistrate. Mike Jones commented he would expect that Liz Amato has a certain protocol that she would follow. Cindy Miller commented this is unfair to put Liz Amato into this situation. She has a job to do for this community, whether you like it or not. She has a job. Being a zoning officer is a difficult job.

Jeannie Connors commented most of the people in the room want the sign to remain. Why not have it checked for structural integrity. What is the big deal? Mike Jones commented the structure is in the right of way.

Chris commented there was something mentioned about developing a policy to obtain permits for something like this, but that wasn't really discussed. Is there something that can be done by a motion to establish a process for a permit? Mike Jones commented that since is it not on tonight's agenda, the Board wouldn't be able to enact a process for that, but it could be placed on an agenda at some point in the future.

A resident commented that the resident to spoke up at the previous meeting was not from the Township. A few meetings ago when there was an issue with the Kleintop's wood pile, it was mentioned that a new law be put in place that states if you are not a neighbor to a violation, you cannot write a formal complaint. Was that ever enacted? The Borad commented it was not. Mike Jones commented in his opinion, it should follow the same suit as the zoning hearing notices. Cindy Miller commented the individual who filed the written complaint was not the same person who complained at the meeting. It was a Township resident.

A resident commented there needs to be a resolution to this because we are spinning our wheels. Perhaps moving the poles out of the right of way would resolve the issue of the poles being within the right of way. As far as the air space, that would be more of a legal matter. If the poles are moved, it would eliminate the safety issue and the nuisance violation would be gone. The Zoning Officer could then cite the banner under the Zoning Ordinance and the Township wouldn't be liable because the Township is then doing something about it because it would be going to the Zoning Hearing Board. Attorney Backenstoe noted the case law is clear. The Township right of way includes the airspace and subsurface.

Adam Ash asked for clarification as to what ordinance is being violated. Liz Amato had referred to subsection R, but his ordinance only goes to D. Attorney Backenstoe commented it is Chapter 103.2.R, nuisances and hazards to public safety. Adam Ash questioned if that references the 20 days. The only time line he could find was for junk vehicles. Attorney Backenstoe commented the 20 days would be under the penalty provision of the nuisance ordinance.

Marc Kercsmar questioned what precedent this may set for any sign that is in the Township right of way. Right now, it is political season and the wind could blow the sign into the street. What about stop signs; they are in the right of way. Attorney Backenstoe commented it is the Township right of way and the stop signs are required by the PA Motor Vehicle Code. Mr. Kercsmar commented if the person who was complaining at the meeting two weeks ago wouldn't have encouraged their friend in the Township to submit the complaint, the actual written complaint may not have come in for another week or two which would have taken the deadline out to after the election. Mike Jones commented the Board is not looking at this as a political issue. It's a sign located in the right of way. When it comes to the discussions and decisions in the meetings, they should not be political. It should be about the residents regardless of what party they are.

Jenna, Honeysuckle Road, commented she is a general licensed contractor and familiar with the contractor industry and the stipulations for permitting. What if Mr. Ziegenfuss were to seek a permit from PennDOT for the sign? Attorney Backenstoe commented that because this is a Township road, the PennDOT regulations would not apply. It would be the Township ordinances that would be applicable. Mike Muffley commented that there is a section in Manual on Uniform Traffic Control Devices that PennDOT has adopted through their guidelines and publications. This manual is a national standard for signs. All of those signs are what is called official signs or approved signs and those signs are strictly for the function of the travel way and transportation of the public. These include things like stop signs, informational signs or natural feature signs, warning and signs. They don't cover things like personal signs or private signs or political signs. There wouldn't be a permit process to get a

sign approved because quite strictly, there are no signs allowed in a public right of way other than approved or official signs that are for the purpose of the traveling public to use the right of way. If someone is going to put up a banner for a community event or something that is not in the ordinary course of the traveling public, a request is made to the PennDOT district office and it is a special circumstance. PennDOT reviews the information and decides on a case by case basis if what is proposed is acceptable. It is always a temporary circumstance for a specified period of time. Jenna questioned if the 20 days could be extended if a letter was written to the Pennsylvania Attorney General. Attorney Backenstoe commented the Attorney General typically handles things at a state level. The Northampton County District Attorney probably wouldn't have any jurisdiction over this because it is not a criminal matter.

A resident questioned if the Board can pass a non-binding resolution telling the Magistrate to not levy fines on these individuals. Attorney Backenstoe commented he does not believe the Board could do that. The Magistrate is an independent elected judicial party and he cannot take direction from the Board.

A resident questioned why not just put the sign on his property at an angle; the people could still see it. The sign would still be there and it would be on an angle to make it easier for people to see. Attorney Backenstoe commented he could do that.

Jean Connors questioned if, since this is causing such a problem between the Board and the residents, the Board could ask Liz Amato to withdraw the nuisance complaint and leave it strictly with zoning. Attorney Backenstoe commented if the Board does that and there is an accident, then there is a certain liability. You would be unringing a bell. The liability carrier could object to defending the Township. Janet Sheats commented she stands behind the decision of Liz Amato. She is not against the sign or what is says. This is being made into something that it is not. They need to do what is in the best interest of the Township as a whole. The ordinances state that signs or structures of any kind are not permitted in the right of way.

Lynn Tamaro wanted to confirm if a subsequent zoning violation was issued, it would not remove the timeframe in the nuisance ordinance. Attorney Backenstoe commented that is correct. The timeframes for each violation would run at the same time, but one will run out before the other comes to fruition.

A resident questioned if the Zoning Officer could give an extension of time to remove the banner. Cindy Miller commented she wouldn't be able to because that would violate the law of the ordinance. The resident commented the Zoning Officer already gave the extension because it was asked to be removed immediately. Janet Sheats commented she already granted the grace period and look how everyone is coming at

her for doing her job. Mike Jones commented she is being attacked for just doing her job. Dan Ziegenfuss commented he thinks there are things that she wouldn't need to pick on such as Wayne Kleintop's firewood pile, this banner. Mike Jones commented when there is a formal complaint filed, she needs to follow through. She is doing her job. Dan Ziegenfuss commented there was a formal complaint for the firewood pile, but she should have done her due diligence and not sent the cease and desist. The Zoning Hearing Board found that she should not have sent the cease and desist. Cindy Miller commented that doesn't make the Zoning Officer wrong. That was the opinion of the Zoning Hearing Board. Janet Sheats commented once a complaint is filed, she needs to act on it. The way everyone is attacking her is not right. Dan Ziegenfuss commented he knows it's a tough job, but unfortunately, she signed up for it and there is due diligence on her part. Cindy Miller commented she may have signed up for it, but did not sign up to be abused. Abigail Ziegenfuss commented that Cindy Miller falsely accused Dan Ziegenfuss of stating that the Zoning Officer didn't know how to do her job. That's when the chaos started. Cindy Miller questioned if Mr. and Mrs. Ziegenfuss went into the Township office and go after the Zoning Officer and have a discussion. Was it a civil discussion? Dan Ziegenfuss commented they did go to the office and he said to her, "Liz, I think after the debacle that happened with Wayne's firewood pile and you were found to not to have done due diligence, wouldn't you think this may not be the wisest thing to do." That is what was said. He is a little high on this. Do we have to pick on everything in this Township? There are criminals that live on Wood Drive just beyond his house. He knows the Township has tried to do things, but they are still there doing stuff. The notice says he can be put in jail or receive thousands of dollars in fines. He understands it is the maximum penalty. The fact of the matter is he would love to leave the sign up until November 6th and take that risk, but he doesn't know how the Magistrate will feel and he can't afford to go to jail for five years or pay \$20,000 in fines. It just feels like over reach. They are being told what to do and have no right to appeal it. He wishes it was a zoning notice that he could appeal. Attorney Backenstoe commented he wants to make it clear. Liz Amato felt this was a nuisance violation. She called him and they discussed it. They felt there was immediate harm based on the information they had and he thought it was the appropriate thing to be filed.

Mason David questioned how long the sign must be down for the nuisance violation to go away and then have it put it up in another location. Attorney Backenstoe commented the nuisance would end when the sign was removed, but if you reinstate it, she would have to issue a letter and say immediately, but most likely they wouldn't remove it immediately because they just put it up so she would end up going to the Magistrate right away, unless the sign was reinstalled on private property.

Katherine Mack commented she has heard numerous times that Liz Amato drove past the sign on her way into work. As a Township employee employed to enforce the ordinances, is there a liability to the Township if she is ignoring the violation, especially in this case where there is a safety concern. Mike Jones commented this will be discussed later on the agenda.

Dan Ziegenfuss questioned if the Board has any authority to take any kind of action pertaining to this matter. Attorney Backenstoe commented he does not think it is appropriate for this Board or any other municipal board to direct their Zoning Officer to issue or not issue things. He believes it is fraught of potential issues and abuse. The Zoning Officer or Code Enforcement Officer need to make a determination on their own. As to whether or not they would need to wait until there is a complaint, it is cyclical. He has seen many Boards take the position they don't want their zoning officer to issue citations until there is a written complaint. Then, a new Board comes in and they say, this is ridiculous. We want our zoning officer to issue citations no matter what. In addition, they want the zoning officer to drive around and look for violations. Then a few years later, another Board comes in and fires the zoning officer because they feel she is looking for trouble. Whatever a Board feels is appropriate, they have the right to introduce that policy.

Jerry Pritchard questioned if, going forward, the Board could create a permit process where people can get a permit to do something like this. Attorney Backenstoe commented that he believes the Board could adopt an ordinance which has clearly stated regulations that are objective. However, the problem right now is that our ordinance doesn't allow anything in the right of way. By changing it, you would have to allow all sorts of structures within the right of way. Dan Ziegenfuss noted there are already a lot of items within the Township right of way. Jerry Pritchard commented that is true.

Dan Ziegenfuss questioned if he could ask Liz Amato for an extension. Attorney Backenstoe commented you can ask, but he doesn't know if she will grant it. Janet Sheats commented she thinks she will stick with what she wrote. Cindy Miller commented she believes she will follow through. Attorney Backenstoe commented he believes that Liz Amato has a process that she follows. Jerry Pritchard commented the Board cannot be going into Liz Amato and giving her individual direction.

- D. Police Report. Chief Fogel reported the two newest officers are doing well. Two of our newer officers, Officers Dougherty and Surjan are approaching the end of their probationary period. He will have a letter to the Board by the November meeting recommending they be removed from their probationary period and retained as full

time officers. Everyone is doing well and learning a lot. The officer who is in the academy is also doing very well and will be coming to us right after Christmas and will be starting his field training and should be on his own by February.

There currently are two officers out injured on light duty. One was hurt doing motor carrier enforcement and the other has been having back issues. Both officers are trying to work through their issues; however, they need some time to heal. Hopefully, they will be back sooner than later.

Jim Hoppes questioned the process when someone receives a citation. How many days do you have to plead guilty or not guilty? Chief Fogel commented when a state citation is issued for a vehicle violation, you have 10 days to respond. When Liz Amato files a citation, the Magistrate sends a notice in the mail to set a hearing date and gives them a chance to plead guilty or not guilty. Jim Hoppes questioned what is the typical time frame for the citation to go out. Chief Fogel commented it varies depending upon how busy the Magistrate is.

- E. Fire Company Report. Rick Hildebrand reported the Department has 122 calls for the past quarter, 17 of which were building fires, 11 EMS calls, 10 accidents with injuries and 17 accidents without injuries. Additional information is available in the written report he provided.

VIII. OLD BUSINESS

A. Maintenance Building

- 1. Bracy Construction, Payment Request #14, Final. Alice Rehrig noted Bracy Construction has submitted all the required documents for the building as well as the closeout of their contract. The final Certificate of Occupancy has been issued for the building. There are no outstanding issues with them. Cindy Miller made a motion to approve Payment #14 to Bracy Construction in the amount of \$96,180.15. Janet Sheats seconded the motion. All voted aye. Motion carried.

B. Ordinance for Review

- 1. Ordinance 2024-3, Amending the Zoning Ordinance pertaining to off street parking requirement for Medical Marijuana Facilities. Cindy Miller made a motion to authorize the advertisement of Ordinance 2024-3 and to send a copy of the ordinance to the Lehigh Township Planning Commission and Lehigh Valley Planning Commission for review and comment. David Hess seconded the motion. All voted aye. Motion carried.

IX. NEW BUSINESS

A. Meetings. Janet Sheats commented at the last meeting it was noted that residents could not ask questions of department heads. It was stated that it was eliminated. She was curious where this came from, why and when the Board did that. Cindy Miller commented the Board had talked about this that the residents were not to be asking the employees questions. Mike Jones commented the Board stated that, but then it was stopped about two months ago. Cindy Miller commented she was unaware that it was stopped. This was something that the employees had requested because the conversations should be with the residents and the Board, not the residents and the employees. It is the Board's meeting. The conversations should be between the residents and the Board. The employees are invited to come to the meeting to discuss matters or their needs with the Board. It is a conversation between the Board and the employees; not a conversation between the employees and the residents. Paul Nikisher commented he can understand that the questions should be directed to the Chairman, but he would like to hear input from the employees if there is something that he doesn't understand. Jerry Pritchard commented the employees are public servants, but that doesn't mean that they should be drilled. There should be no harm in asking a simple polite question.

Attorney Backenstoe commented different Boards handle it different ways. Some Boards will ask questions of the staff, then open it to the public to ask questions. Others do it similar to what was being suggested where the residents ask the Board and the Board talks to the employee. Janet Sheats commented she doesn't agree that it should be eliminated. Attorney Backenstoe commented he doesn't believe it should be totally eliminated. Mike Jones commented the questions should be pertaining to what is reported as opposed to some random unrelated question. That question could be asked during their normal business hours or asked of the Board and the Board will get the answer. David Hess commented if the public starts to grill the employees, then the Chairman needs to shut it down. Janet Sheats commented if someone has a question, they should be able to ask the Board and the Board should be able to get the information from the employee.

Marc Kercksmar commented he thinks this stems from a few meetings ago where someone wanted to ask a question of an employee and they were told to wait until public comment, but the employee had left right after their report and was not available during public comment.

Barry Haydt commented you should be able to ask the question of the person who does the work. Mike Jones commented he understands, but if it is a general question, you should call the person while they are at work. What they don't want is the off the wall questions or badgering of employees while they are at the meeting.

B. Zoning Enforcement. Janet Sheats commented she does not agree with our Zoning Officer having to wait to check on something that is of a safety concern until there is a complaint. The liability will be on the Township whether a complaint is filed or not. Mike Jones commented he would agree for matters of public safety, but if it is not a matter of safety, then there should be a written complaint. Janet Sheats commented she feels it should be at the discretion of the office. They are the ones who are getting the phone calls. She wants everyone to get on the same page. Cindy Miller commented then it needs to be taken care of in the office and not come to the Board. Using the sign as an example, the whole matter got escalated up to the Board. She found out about it either the day before or the day of the meeting that it was escalating, and in her opinion, it never should have come to the Board because a determination was in the process of being made. The office should have been able to deal with it without it coming to the Board. It escalated to the Board at the meeting and they dealt with it that night. She read what the right of way definition was and handed it to the solicitor who was here that night and said she had a feeling that this was going to escalate and you may want to talk to Attorney Backenstoe about this. That is why it was handled the way it was during the meeting. In her opinion, it never should have gotten to the Board and handled in the office before it ever got to the Board. The incident started almost a week before it got to the Board meeting. Mike Jones commented he agrees, but the Board set the precedence that nothing should be done without a complaint being filed. He never thought it would come to something like this being an issue. In hindsight, seeing something like this, there should be times where they can act without a written complaint being filed. Cindy Miller commented people need to realize that the Board is not in the office 24/7. They have no idea what is going on in the Township on a 24/7 basis. Sometimes issues come up to the Board and they are trying to figure out what is going on because they don't really know what is going. She is only one Board member, but doesn't believe the matter should have reached their level. She believes the Board gets pulled into situations or issues some times that they shouldn't be involved in. It should be handled at the office level. Our office needs to be able to have the discretion to do their jobs and people on the Board need to stop interfering with the office because of personal agendas. The office needs to do their job without interference. It is not the role of the Supervisors to tell the staff what they need to do.

Katherine Mack commented she agrees that the office should be able to handle things, but Liz Amato has told the Zoning Hearing Board that a formal complaint needs to be filed and she cannot act on something without the formal complaint. She thinks it is good that the Board is considering making a change to this. When the issue of the banner came up a week or two ago, she did not have the discretion to act on it.

Janet Sheats commented it needs to be a collaboration between the five Board members. Everyone has a different view on things. It doesn't mean that one person's idea is bad or not working. We have to work together. When it comes to standard neighbor or general types of complaints, she doesn't believe someone on Long Lane Road should be complaining about something that is on Wood Drive. If it is a safety issue, then the staff should have the discretion to do something about it.

Lynn Tammaro commented every resident has the right to make a complaint. If you are only allowing people in the area to make the complaint you are selectively enforcing your regulations. Janet Sheats commented what she means is, if someone is a neighbor who has a legitimate concern, they shouldn't have to file a written complaint. If you are going to be making a complaint against someone across town, then it should be a written complaint. Lynn Tammaro commented if there is a written complaint, then you would have the paper trail.

Barry Haydt commented the Township is going through the expense of changing the zoning. If the rules are not going to be enforced, why change the zoning. The rules should be enforced. Mike Jones commented he agrees, but the Board had told her from the beginning, they did not want her driving around looking for infractions. Barry Haydt commented that is her job to enforce the zoning. David Hess commented he doesn't see an issue, for example, if the Zoning Officer sees something while driving to work, that she enforces the issue. Jerry Pritchard commented he thinks it should be a written complaint. Barry Haydt commented you can't enforce something for one person and not the other. Mike Jones commented it has happened with the Zoning Hearing Board. It may predate most of the people on the Zoning Hearing Board, but a guy came in for a lawn care business and he was denied, but a month earlier, someone else was allowed to do the same thing.

Attorney Backenstoe commented enforcement policies will come and go and be changed over time. His thought, based on the conversations he has been hearing is that the Township's rule should be, if there is a matter of imminent harm, public safety, and the Zoning Officer becomes aware of it, she should act immediately. For other issues, the Board needs to determine how they would like her to handle it. Do you want her to respond to only written complaints or oral complaints? Do you want her driving around and looking for violations? Do you want her to respond to anonymous complaints? Jerry Pritchard commented he agrees if there is imminent danger something should be done. Beyond that, he believes it should be a written complaint. Barry Haydt commented why have the zoning if there is not going to be any teeth in it. Attorney Backenstoe commented that there are teeth in it. If someone files a written complaint, it would be investigated. Mike Jones questioned what about if she is driving and sees something. Attorney Backenstoe commented it also would

not be inappropriate for the Zoning Officer to take action against something which is a clear violation. Janet Sheats commented that would be her thought as well. She doesn't expect her to be going out and putting 100 miles a day on the Township vehicle looking for stuff, but if she sees something staring her in the face, she should be able to do something about it.

Attorney Backenstoe commented it seems like the Board it looking at having the enforcement handled by a three tier analysis. If the Zoning Officer is made aware of or sees something that is of an imminent danger or threat to the public, she is to do something without a complaint being filed. If she happens to see a blatant violation in front of her, she can act on it. If someone comes in or calls about a matter, it should be in writing.

Justin commented that his wife has a business that was thrown under the bus because of someone who is a complete liar. When he moved into the Township nine years ago, he was told by the previous zoning officer that his wife was allowed to have the business, but he did not get it in writing and trusted a Township official to give him proper information. Now, nine years later, a liar moves into the community, and he now has to redo a lot of things which will cost him a lot of money because he was given wrong information. Now, it's brought to the Zoning Board's attention, and something needs to be done. He believes it is complete nonsense for someone to be able to make an anonymous complaint against someone or a business and create all kinds of extra expenses for them. Mike Jones commented he understands and agrees that in a situation where someone was not doing their job and years later a violation is brought to the Township's attention, the matter should be grandfathered in. It is not the individual's fault that someone gave them wrong information. Janet Sheats commented this type of situation is what she is trying to prevent. Justin commented that he understands that you won't be able to keep complaints strictly to a neighborhood, because people will just get someone else they know to file the complaint, but he thinks they need to come into the office and file it in person to prevent people who just want to type of their keyboard from filing all kinds of complaints and signed by someone from the office. Janet Sheats commented she believes the key to this is being consistent in what is done.

Mike Jones commented he could agree that someone should come into the office to file the complaint and then have it accepted by someone in the office. Janet Sheats questioned what about the person who is unable to come into the office; she is concerned about being ADA compliant. Justin commented at his job, complaints must be done in person. People shouldn't be able to take the forms home and have someone else fill them out and sign their name. Attorney Backesntoe commented he

is not certain about only accepting complaints that are brought into the office, but he agrees that you don't want to have someone just typing away to file the complaints. There may be a need for exceptions for handicapped individuals. Mike Jones commented he does not like the keyboard warriors who just want to type away. If you have an issue, you should put your name to it. Janet Sheats commented she likes the three tier system that Attorney Backenstoe mentioned. She does not believe that any anonymous complaints should be accepted.

Janet Sheats commented going forward, everyone needs to be on the same page and need to be acting as a team. They may not agree with each other all the time, but they all do have the Township's best interest at heart.

The Board agreed upon the following policy for enforcement:

- If there is a matter of imminent danger or a threat to the public, action is to be taken immediately.
- If the Zoning Officer makes an observation of a violation in the course of her normal travels, they shall can act on it.
- All complaints shall be in writing and submitted to and accepted by someone in the office.

A resident commented that he thinks the Zoning Officer should have to fill out the same complaint form as others who are providing a written complaint. Attorney Backenstoe commented when the Zoning Officer issues her cease and desist letter, that is her form of written complaint. He also believes that they should be able to face their accuser. Immanent danger could also be a matter of interpretation. Janet Sheats commented that we have to trust the judgement of the Zoning Officer.

Marc Kerksmar questioned if the written complaint can only come from the immediate neighborhood. Attorney Backenstoe commented that would not be the case. He doesn't believe that is appropriate. Marc Kerksmar also questioned if someone files a written complaint, is that complaint shared with the party they are complaining about. Attorney Backenstoe commented that is not something that is permitted under the Right to Know Law. It is one of the exclusions under the law. People wouldn't have the right to that information unless there is a hearing and the person is a witness. Katherine Mack commented when she had her hearing, she wasn't able to face her accuser. She was told at the hearing that she couldn't have access to the complaint. Attorney Backenstoe commented if someone was not used as a witness, you may not know. It is different between a criminal case and a civil matter. Under the Right to Know Law, there is an exclusion (Item 17) for various records of an agency. Items pertaining to the Zoning Hearing Board would be

records relating to a non-criminal investigation, including the complaint submitted, investigative notes and correspondence, and a record which could deprive a person of an impartial adjudication. When a zoning complaint is filed, you would not have the right to that record under the Right to Know Law. There are times where the complainant is called as a witness for the Zoning Officer if they not able to make their case without a witness.

The members of the Zoning Hearing Board wanted to address the Zoning Enforcement. Their specific concern is the enforcement of zoning decisions from special conditions and variances. They are questioning the enforcement of conditions which are imposed during the course of a zoning hearing. They believe there may be a misinterpretation regarding acting on complaints only when it comes to the conditions that were set by the Zoning Hearing Board at these hearings. Section 8 of the Municipalities Planning Code states it shall be the duty of the Zoning Officer to inspect properties to determine compliance with all provisions of the Zoning and conditions attached as a result of special exceptions, variances, conditional uses, and curative amendments. They are questioning if there is a procedure in place for the Zoning Officer to enforce these conditions. They would like to propose a procedure whereby the Zoning Officer would enforce these conditions. They feel the Zoning Officer should be able to take enforcement conditions when notified by the Zoning Hearing Board. When the Zoning Hearing Board places these conditions, they do not have any method to enforce the conditions. They are asking the Board to assist them with a policy and procedure so that they can do that. They have no enforcement powers. According to the PA Government Center for Local Government Services, the Zoning Officer is charged with the authority to enforce the Zoning Hearing Board's decision, including revocation of the decision for non-compliance with the decision. What information is required for the Zoning Officer to investigate violations of conditions? The Zoning Hearing Board is aware of situations where there are obvious violations of their decisions and have shared the information with the Zoning Officer, but the violations still exist. Was the directive to the Zoning Officer to not engage in active enforcement meant to include the decisions of the Zoning Hearing Board? They are asking for the Board's assistance in enforcing these violations when brought to the attention of the Zoning Hearing Board. The Zoning Hearing Board would be happy to work with the Board on a policy or directive for the enforcement of the conditions that have been noted in the legal opinions of the Zoning Hearing Board.

Attorney Backenstoe commented to him, the enforcement of a Zoning Hearing Board decision is very clear. It is exactly the same as the enforcement of the Zoning Ordinance. If there is a violation of the zoning ordinance, the zoning officer does what they do. If there is a violation of a condition of a zoning decision, it is the same thing because that decision becomes the zoning law of that property. Whatever the

rules are that the Zoning Officer is to follow for enforcement, i.e. imminent danger, visual observation, written complaint, would apply equally. Janet Sheats questioned if the Zoning Hearing Board is made aware of a violation of a condition, would they still be required to file the written complaint. Katherine Mack commented if one of them files the complaint, they would be excluded from the hearing. Attorney Backenstoe commented it can become problematic because there is an inherent conflict. Katherine Mack commented if a business comes before the Zoning Hearing Board and wants to be open Thursday, Friday, Saturday, that becomes a condition of their approval. Then someone from the Board drives by and sees they are open on Monday, Tuesday, and Wednesday, in addition to the approved hours. They are violating their legal opinion that was imposed on them. Mike Jones commented if you are referring to Soaked, they are not open the additional days. It was a day for a special event for fundraising and they were not open for regular business. Katherine Mack questioned when the violation is public knowledge because you can see it on their website, how does it get enforced? The Board commented a written complaint would need to be filed. Cindy Miller commented the Supervisors are in the same shoes. If they see something, they need to file the written complaint. Katherine Mack commented the Zoning Hearing Board shouldn't have to because it is a legal decision or document. Janet Sheats commented she has already filed a written complaint and eventually she did tell the person it was her because they were blaming the Township. Attorney Backenstoe commented there is an inherent conflict when a member of a zoning hearing board files a written complaint because as soon as they do that, the person who is the violator has the right to ask them to recuse themselves in the event they need to come back before the Zoning Hearing Board.

Attorney Backenstoe questioned what the Zoning Hearing Board would propose for dealing with a violation. Lynn Tammaro commented that the Zoning Hearing Board should be able to direct the Zoning Officer to investigate a violation and issue a summons if necessary. The Board did not agree. Cindy Miller commented the Township ordinances, Section 119 states the powers and duties of the Zoning Hearing Board include Challenges to the validity of the Zoning Ordinance, raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of the ordinance, special exceptions, as provided for in this chapter and subject to all applicable requirements, including but not limited to an advisory report and setting conditions, variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant, and the right to hear appeals. Nowhere in the ordinance does it state that the Zoning Hearing Board has any authority for enforcement. Why would the Board give the Zoning Hearing Board directive to tell the Zoning Officer what to do? Lynn Tammaro questioned why there would be a Zoning Hearing Board that couldn't enforce the rules they put in effect. Cindy Miller commented that is not the authority of the Zoning Hearing Board to enforce.

Attorney Backenstoe commented it is the authority of the Zoning Officer to enforce. The question is how does the information of a violation get to the Zoning Officer.

Mike Jones commented it would be the same process as everyone else. There are five members of the Board. Only one needs to file the complaint. Jerry Pritchard commented if there are four members of the Board, there is a quorum to render a decision. Cindy Miller also noted there is an alternate member. He could step in if one of the members needs to step down for a hearing. Mike Jones commented the Board just got done discussing that they don't want the keyboard warriors going around and reporting everyone without signing their name to a complaint. Why would the Board want the members of the Zoning Hearing Board to go around reporting people? Lynn Tammaro questioned if a letter could be submitted from the Zoning Hearing Board, signed by the Chairman, as a way of communication. Attorney Backenstoe commented a clever lawyer would have the right to ask about that and have the entire Zoning Hearing Board set aside for that hearing. The better answer is that one of the Zoning Hearing Board members make the complaint and then recuse themselves. Attorney Backenstoe commented there is no difference between a violation of a section of the zoning ordinance or a violation of a zoning hearing board decision. The Zoning Officer would enforce both items.

A resident questioned if someone goes to the Zoning Hearing Board and is denied their use and continues to do what they were not supposed to be doing, how do you make a complaint. They have made complaints about someone who was denied a special exception through zoning, and Liz Amato has said she doesn't know what else to do because they were denied. Attorney Backenstoe commented if there is a violation and it continues, it can go to the Magistrate.

Katherine Mack commented when you read the duties of the Zoning Officer, it states that they shall inspect properties to determine compliance with all provisions of this chapter, as well as conditions attached to the approval of variances, special exceptions, conditional uses, and curative amendments. She shall inspect them. When she hears of something, she shall inspect that. Mike Jones noted it is upon a written formal complaint. Attorney Backenstoe commented it could also be if she sees it as outlined by the Board. Charlie Perich commented the Zoning Officer is the only one who can enter a property if they see a violation. Attorney Backenstoe commented the Zoning Officer could not enter the property without an administrative warrant. They have to be able to view it from public property or a neighboring property with their permission.

- C. Manager's Report. Alice Rehrig reported she was notified by the State that we will be receiving our next disbursement of \$158,000 toward the Maintenance Building. There still is about \$350,000 in reimbursements remaining.

Alice Rehrig also confirmed with the Board that October 24, 2024, at 7:00 p.m. is the date for an information discussion with the Fire Company.

Wayne Kleintop questioned what was going on with the forensic audit that was not completed. Alice Rehrig commented that there was not adequate individual tax payer receipts provided during the audit so that the cash deposits could be tied out and identified.

Cindy Miller questioned if a new auditor was hired for the close out audit. Alice Rehrig commented she was in contact with the auditor and requested a formal proposal.

Paul Nikisher questioned what the plans were for the remaining COVID money. Alice Rehrig commented she doesn't have the numbers with her, but there was \$200,000 allocated to the Fire Company for their truck, there will be a little over \$200,000 needed for the fuel station, the underground fueling tanks need to be decommissioned, the security upgrades to the buildings, and the new windows. Cindy Miller commented there are grants outstanding which require a match or if they are not awarded will need additional funding. The Township needs to have the expenditure of the money planned by the end of 2025.

Monica Brown questioned where we were with receiving reports from the Tax Collector. Are they up to date? Alice Rehrig commented they are not up to date. The current tax collector and previous tax collector are working through the errors that are within the March report and are making progress. She doesn't have an exact date as to when everything will be up to date.

- D. Solicitor's Report. Attorney Backenstoe commented that all the agreements for Northwoods Phase II A and B have been signed and are ready for Board signature. Once the letters of credit and certificates of insurance are received, the plans will be able to be recorded.
- X. PUBLIC COMMENT. Jim Hoppes commented there was a zoning hearing held about six months ago for the Moyer Garage on Route 946. During the hearing, the neighbor behind them was complaining about all the dump truck loads of fill that Moyer dumped in the back and that every time it rains there are water issues. The Zoning Hearing Board Solicitor told the Zoning Officer that she should report it to the Board of Supervisors. The Board commented they should be filing a complaint regarding it. Mike Muffley commented it is something that could be enforced under the SALDO requirements especially since it was land development.

Jerry Pritchard commented it was established tonight that Liz Amato is doing her job and she has a tough job to do. He also believes if someone has a problem with what someone is doing, they should just take it to them. Tonight, there was no opposition to what was done. If they had an issue with it, they should have been here. The Board had to follow their ordinances, but he really believes that if someone had an issue with it, they should have been here.

Paul Nikisher commented he appreciates the sign and the people who put it up. He also wanted to encourage everyone to come out and vote.

The correspondent for the Home News commented she needs to be able to hear what is going on during the meeting in order to accurately report it. Every meeting there are people talking in the background or cell phones going off. She is asking everyone to be quiet.

Katherine Mack commented it is difficult to hear at times regardless what is going on in the audience. Mike Jones commented the microphones do not work like they should. The Board is working on improvements which is why they are starting with the monitors.

- XI. EXECUTIVE SESSION. The Board went into Executive Session to discuss personnel. No action was taken.
- XII. ADJOURN. Janet Sheats made a motion to adjourn. David Hess seconded the motion. All voted aye. Motion carried.