

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

April 9, 2024

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on April 9, 2024, at 7:00 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
David Hess
Janet Sheats
Mike Jones
Attorney David Backenstoe
Alice Rehrig
Mike Muffley
Liz Amato
Scott Fogel
Frank Zamadics

Absent: Jerry Pritchard

II. APPROVAL OF THE MINUTES

- A. Minutes of March 26, 2024. David Hess made a motion to approve these minutes. Cindy Miller seconded the motion. All voted aye. Motion carried.

III. APPROVAL OF BILLS

- A. General Fund Checks 27657 to 27689. Cindy Miller made a motion to approve these checks. David Hess seconded the motion. All voted aye. Motion carried.
- B. State Fund Check 1594. David Hess made a motion to approve this check. Cindy Miller seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

A. Extension of Time for Plan Approval

1. John and Dennis Moyer Lot Consolidation Plan. Dennis Moyer was present to represent this plan. He granted the Board an extension received until October 31, 2024. He was before the Planning Commission last evening and they approved the configuration of his plan. He needs some additional time to complete the comments of the Township Engineer. Cindy Miller noted the Planning Commission recommended accepting the extension of time until July 31, 2024, since they do not need a lot of time to address the engineering items. Janet Sheats made a motion to accept the extension of time until July 31, 2024. David Hess seconded the motion. All voted aye. Motion carried.

B. Extension of Time for Plan Recording

1. LTMA Pennsville Booster Station. Phil Gogel was present on behalf of the Municipal Authority. They are requesting an extension of time to record the plan until December 31, 2024. The extension is needed because the final location of the pipes and items of that nature because this is a rather complex project. The agreement between the Municipal Authority and Mr. Jaendl has been signed. Mike Muffley commented the Authority's engineer has been keeping him up to date with the project. As long as the Jaendl project is in process of development, this plan will continue to evolve. Cindy Miller made a motion to grant an extension of time to record this plan until December 31, 2024. Janet Sheats seconded the motion. All voted aye. Motion carried.
2. Sedler Design & Redevelopment LLC. Joe Sedler was present to represent this plan. Mike Muffley commented he has been working with Mr. Sedler on their cost estimates and improvements for the project. Cindy Miller made a motion to grant an extension of time until July 31, 2024. David Hess seconded the motion. All voted aye. Motion carried.

C. Amey's Garage, Request for Waiver of SALDO requirements for consolidating lots.

The owner of Amey's Garage was present to request a waiver of the SALDO requirements for a lot consolidation plan. The garage is operating on two parcels of land and when they had received their building permit for a pole building on the property, they were told the two parcels should be combined because they are operating the business on a property which was previously a residential property. Right now, they are only looking at combining the two parcels, but they are contemplating an addition in the future.

Mike Muffley commented the SALDO is written that any lot consolidation is considered a minor subdivision and any minor subdivision goes through Planning. Additions or alterations to the site could also require land development as well. The lot consolidation plan also takes care of surveys and making sure the legal descriptions are accurate. It also gives the County the ability to update their records. Alice Rehrig also noted that this property does not have a land development plan because the business was in operation prior to land development requirements.

The Board felt that this project should be submitted to the Planning Commission.

- D. Engineer's Report. Mike Muffley reported Northwoods Phase I improvements are substantially complete. Lehigh Engineering has submitted the Phase II plans for recording. He is currently reviewing the plans for signature and has approved the cost estimates for Phase IIA and B. He will be providing these to Attorney

Backenstoe so he can prepare the agreements for this phase. They are also getting ready to submit building permits and grading plans to the Township for approval.

V. DEPARTMENTAL/ORGANIZATIONAL REPORT

- A. Recreation Report. Sandy Hopkins reported the following activities for the Recreation Board: May 5th, the Blue Mountain Fish & Game will be hosting a basket raffle for the benefit of Furry Feet Rescue and the Recreation Board on May 5 from 10:00 a.m. to 2:00 p.m. Basket donations can be dropped off at either the Municipal Building or the Fish & Game; May 6th and May 7th, the refreshment stand will be open in Berlinsville for baseball games; May 18th Pet Inoculation will be held at the Municipal Building. Dr. Shelly will be donating his time and the fee that is charged will be based on Dr. Shelly's costs.
- B. Public Works. Frank Zamadics reported he picked up the truck that was purchased from Upper Macungie. He had previously indicated that the truck did not come with a lift gate or plow. He received a quote for the purchase of a complete lift gate at a price of \$4,146.32. The Public Works Department would do the installation. Cindy Miller made a motion to approve the purchase of a lift gate in the amount of \$4,146.32. David Hess seconded the motion. All voted aye. Motion carried.

The truck also has the mounts and wiring harness for a Fisher plow. A new plow would cost \$6,500. There is a used 2012 plow that is available on Muncibid that will be sold on Tuesday. He has an email into the municipality that is selling the plow to find out additional details about the condition as far as the electrical components and pump. If he gets information that everything is in good working order, he would like authorization to place a bid for up to approximately half the value of a new plow. Cindy Miller made a motion to authorize a bid of up to \$3,200 for the plow if Frank Zamadics is satisfied with the information he received. Janet Sheats seconded the motion. All voted aye. Motion carried.

The truck with the bad transmission and the old police car will be placed on Muncibid for sale.

With the weather being warm and dry, the crew has cleaned the tennis courts and is in the process of sealing the cracks. They are hoping to finish that up tomorrow, get things painted, put the pickle ball lines down, and nets back up within the next week.

The summer help will be starting next week.

In opening the parks, they discovered that there were doors that were left open. Frank Zamadics did not know when they were left open or how they got open. There was

quite a bit of vandalism that took place at Berlinsville and Danielsville Parks. Danielsville had sinks damages, paper towel holders broken, and a fire in a toilet.

1. Road Projects. A project consisting of a double coat chip sealing 7.1 miles of roadways was presented to the Board. Prior to doing the chip sealing, there are extensive repairs that the Public Works Department will need to make to the roadways. The chip seal will seal the cracks to help preserve the roads so that they don't deteriorate. The chip seal is done to keep roads that are good in decent shape. Because of the work that needs to be done and the amount of mileage being proposed, it will be a tight budget. When the bids are put out, it will be stated that the Township reserves the right to reduce the scope as needed based on budgetary constraints. The first area of reduction would be to reduce certain roads to a single chip seal rather than eliminate roads. Cindy Miller made a motion to place the road project out to bid. Janet Sheats seconded the motion. All voted aye. Motion carried.

- C. Zoning Report. In March, there were 31 new permit applications received, 30 permits were issued, and 5 complaints were received. There were two zoning hearings held. One was for a notice of violation and the burden was not met; the second was for a special exception for a home occupation which was approved with conditions. No hearings are scheduled for April.

In May there are three hearings scheduled: a special exception for temporary farm employee housing; a variance for a driveway grade, and a use variance for a Principal Solar System along with a validity challenge because these systems are only permitted in the Industrial Area. The May hearing will be held on May 16 so that Attorney Backenstoe can be present for the hearings. She already has a special exception scheduled for June.

- D. Police Report. Chief Fogel noted the Department's overall statistics have been remaining constant; the call volume is slightly higher this year than it was last year at this time.

The Chief commented if the residents notice something that is not right or observe vandalism as it is taking place, they should not hesitate to call 911. Often times they call a Board member or the office and that can result in a delay until the on-duty officer can get there. The best way to stop the vandalism is to get the officers there as soon as possible

April is Autism Awareness month. On April 2, Alex Mann, a young man with Autism, visited the department. His mission is to visit Police Departments in

Pennsylvania. So far, he has visited 477 departments. He talked about Autism and what police need to be aware of and how people with Autism may interpret things.

There was a crash on Route 145 this morning which was a fatal crash. They are waiting on the medical results to determine if the fatality was the result of the crash or a medical issue. He also wanted to mention the good job Officer Batihk did at the first officer on the scene. He did a great job getting everything cordoned off and getting everything ready for the coroner and further investigation. He also appreciates the three witnesses who came forward at the scene.

Today they had the retirement of Officer Robert Manogue who retired after 21 years of service to Lehigh Township and a total of 30 years in law enforcement career.

Chief Fogel has been receiving positive feedback from the Sergeant at the Police Academy regarding the two cadets who are currently in the academy. The cadets do stop in at the police station on a regular basis to speak with either the Sergeants or himself.

1. Hiring of Officer. Chief Fogel questioned if the Board had any additional questions after interviewing the perspective candidate. This candidate comes with a lot of qualifications and certifications that would be beneficial to the Department. If he were to be offered a position, it would be based upon successful completion of drug and alcohol testing, psychological, physical and completion of the Police Academy. There would also be a one-year probationary period. Cindy Miller made a motion to extend an offer of employment to the successful candidate pending successful of drug and alcohol testing, physical and psychological exams, and polygraph with an initial probationary period of one year. Janet Sheats seconded the motion. All voted aye. Motion carried. Mike Jones questioned when the academy program would be completed. Chief Fogel commented the academy class runs from July to December or January.
- E. Municipal Authority Report. Phil Gogel reported the Authority signed the agreement with Mr. Jaindl. They will be constructing the plant and all the lines for the Authority. They also needed to get easements. There are still some items outstanding from a plan perspective. They are only going to be utilizing the one new plant instead of keeping the old one in operation as well. They will also be installing a hydrant with an eight inch main on Cherryville Road.
- F. Fire Company Report. The Fire Company responded to a total of 132 incidents, including several house fires, during the first quarter of the year. There were 57 medical calls and 75 fire incidents. Powerlines down and vehicle accidents were the most frequent type of calls. There have been occasions where they did need to call in

mutual aid for non-fire calls; they also provided mutual aid 15 times. There were 22 occasions where there were multiple incidents at one time.

Mike Jones questioned who automatically responds with the Township for a house fire. Rick Hildebrand commented it is Walnutport, Slatington, Laurys, Northampton, Allen Township, and Moore Township. The Township is automatically dispatched for structure fires for Northampton, Laurys, Washington Township, Slatington, and Walnutport.

Their Sportsman Night Fundraiser was successful; the next event they will be holding is a Tool/Outdoor Extravaganza on May 4.

1. Amendment to Fire Recovery Ordinance. The intention of the proposed amendment is to authorize non-residents who are property owners to be billed for supplies used by the Fire Company. The current ordinance states a property owner will not receive a bill, but not all property owners are residents. There was a question as to how a rental property would be handled since the occupants of the home are residents. Rick Hildebrand also commented during an accident, there is a lot of manpower and supplies that are used. If the insurance company says no or if there is no coverage, they cannot recoup any of their expenses. Attorney Backenstoe commented he believes the wording of the ordinance needs to be adjusted to help clear up some of the confusion. Janet Sheats made a motion to table the draft amendment. Cindy Miller seconded the motion. All voted aye. Motion carried.

VI. OLD BUSINESS

A. Maintenance Building

1. Shannon A. Smith, Inc. Payment Request #8. Cindy Miller made a motion to approve Payment Request #8 for Shannon A. Smith in the amount of \$23,905.80. Janet Sheats seconded the motion. All voted aye. Motion carried.
2. Bracy Construction, Payment Request #9 (retainer reduction). This payment request would reduce the retainer from 10 percent to 5 percent. Based on the wording of the contract and how far along they are with their portion of the project, the Township wouldn't legally be able to continue to hold the 10 percent. Cindy Miller made a motion to approve Payment Request #9 for Bracy Construction in the amount of \$78,905.71. Janet Sheats seconded the motion. David Hess questioned if the project is still going according to schedule. Alice Rehrig commented the hold up on the project is the PPL connection which is expected to take place on April 29. The base coat for paving is scheduled for the middle of May. All voted aye. Motion carried.

3. Bracy Construction, Payment Request #10 (retainer reduction). The payment for the work that was completed in this payment request was previously approved, but at a 10 percent retainer. Since we are now holding a 5 percent retainer, the balance due for this payment request would be \$9,005.53. Cindy Miller made a motion to approve payment of \$9,005.53 for the balance owed to Bracy Construction for Payment Request #10. David Hess seconded the motion. All voted aye. Motion carried.
4. Bracy Construction, Payment Request #11. Cindy Miller made a motion to approve Payment Request #11 for Bracy Construction in the amount of \$102,479.81. David Hess seconded the motion. All voted aye. Motion carried.
5. Livengood Excavators, Change Order #2. This change order is needed to provide for proper drainage around the fuel island. Mike Muffley commented with the installation of the fuel island, the area becomes flat rather than having a grade so they need to tie the fuel island grades back into the existing parking area. The amount of the change order is \$4,429.07. Cindy Miller made a motion to approve Change Order #2 from Livengood Excavators in the amount of \$4,429.07. Janet Sheats seconded the motion. Janet Sheats questioned if this was not known when the project was put to bid. Mike Muffley commented the fuel island was not included with the initial scope of work. All voted aye. Motion carried.
6. Livengood Excavators Change Order #3. Cindy Miller made a motion to approve Change Order #3 from Livengood Excavators in the amount of \$88,639.00. Janet Sheats seconded the motion. David Hess questioned how this change order came about. Alice Rehrig commented the scope of the project only required paving around the building. The current access drive was never really built to be a routine access drive. This change order would provide for a designated access to the building by making it perpendicular to Municipal Road and removed the bad material that currently is in place and build a proper access drive. All voted aye. Motion carried.

VII. NEW BUSINESS

- A. Resolution 2024-8. The purpose of this resolution is to bring the costs that are listed within the resolution up to date with the actual cost of the supply. The posts for signs are one area where there was a significant increase in supply cost. Cindy Miller made a motion to approve Resolution 2024-8. David Hess seconded the motion. All voted aye. Motion carried.
- B. Manager's Report. Alice Rehrig reported she received approval of the special condition material that had to be submitted as part of the grant approval. Since the special condition package was approved, it appears as though they will be accepting

the full value of the land that was included as part of the match. Now that the special conditions were approved, the Office of the Budget starts focusing on the reimbursements that were submitted. The reimbursement requests are also tied back to the construction monitoring reports that Stantec submits to the Office of the Budget. Based on the phone conference she had with Stantec, it looks like they will be submitting a clean report which should help move the reimbursement along. The Office of the Budget does hold back 2 percent to 5 percent of the grant award until an audit is complete. The audit will take about 12 to 18 months until it is completed. The change orders which were a result of the project itself totals roughly \$25,000. The State allows for up to 20 percent of the project as change orders, so we are well within the permitted limits.

The yard waste site project is underway. The concrete has been poured and the power pole is scheduled to be set next week. Over the next month or so, the details of how the program is going to be working will need to be worked out.

- C. Solicitor's Report. Attorney Backenstoe reported the trial court overturned the decision of the Zoning Hearing Board in the Karaman matter. The property is located in a General Commercial District and was being used as a crafting retreat house. The Zoning Officer felt that the use violated the Zoning Ordinance. Approximately 15 years ago, a variance was received to build a home on this parcel. When the matter went before the Zoning Hearing Board, they agreed with the Zoning Officer and denied their request for a variance. The applicant filed an appeal with the courts and they ostensibly said it's in a General Commercial Zoning District and in reviewing the testimony, they felt it was similar enough to hotel/motel and it should be permitted. Based on the fact that the Board tried to settle this appeal before the hearing took place, he is assuming the Board does not want to file an appeal on this decision. The Board agreed they did not want to file an appeal; enough money was spent on this matter.
- VIII. PUBLIC COMMENT. Linda Roman questioned if the drainage issues and the fact that the property is a wetland was addressed with the LTMA Pennsville Booster Plan. How are the environmental issues pertaining to raptors and eagles being addressed. They are nesting in the area. Mike Jones noted the plan was previously approved; the Board granted an extension of time to record the plan. Linda Roman commented there are State and Federal laws that protect raptors, eagles and their habitat. The Board commented there are no trees being removed with the new sewage treatment plant. It is going towards the ballfield. Mike Muffley commented wetlands and waterways are regulated by State and Federal law. There are permits that need to be acquired to disturb these areas. The plant has been reviewed by the appropriate agencies.

Sandy Hopkins questioned when the bouts of vandalism took place at the parks. Alice Rehrig commented it was discovered in the past two weeks. Sandy Hopkins questioned if the Police Department was at all notified of this. Alice Rehrig commented the police are aware of the situation; one of the officers is the individual who found the open door while he was on patrol. Sandy Hopkins questioned when the repairs will be made to the bathrooms because Bryfogle Park is going to be used quite heavily in the beginning of May. Alice Rehrig commented the vandalism at Bryfogle will require more cleaning than repairs. Mike Jones questioned who has keys to the parks. Alice Rehrig commented there is a limited number of keys that have been supplied. It hasn't been determined how the access was made to the bathrooms.

Rick Hildebrand noted there has been some creative parking taking place at the LTAA facility. Vehicles are parking on both sides of the street, in people's yards, and close to the intersection. It is difficult to get a car through; if an emergency vehicle needed to get through it would be almost impossible. Alice Rehrig will contact LTAA regarding the matter.

Paul Nikisher noted Hickory Road is in need of attention. He believes the department heads should be available to ask questions so that people understand what is going on. There needs to be more transparency. The Board should share what they know with the residents. If there is more information provided, it makes it easier for the public to understand what is going on.

Rich Rehrig commented there has been a rumor going around about abolishing the Police Department. Is there any truth to this? The Board commented that is false.

John Noblach commented he moved here about seven years ago and loves it here. He is also a strong supporter of law enforcement. He understands that in law enforcement there are times where they are responding to life and death situations and sometimes, they need to make a decision in seconds or minutes. Sometimes, unfortunately, they are sued on the decision they made, and he can understand that. If this was the situation with the lawsuit of Jessica Edwards vs. Scott Fogel individually, he could accept that. But that is not what happened in this case. Based on the complaint, it appears as though there were personal actions that caused the law suit. He also realizes there are frivolous lawsuits where money is paid out to make them go away. He's seen \$10,000, \$20,000, \$50,000, or \$100,000 paid out to make people go away to stop a court action. For \$1,750,000 to be used in a settlement seems unusual. He sees all the good and bad information going around on Facebook about the Board, the Township, and the Police Department and it bothers him because he did it for 30 years. For a settlement that large, it would appear that there was something within the complaint that the Township was worried about that they decided to settle instead of going to court, and if he understands correctly, the

Township has to pay \$275,000 of the settlement. Attorney Backenstoe confirmed that was correct. The Township was represented by outside counsel, Patrick Boland, who was appointed by the Township's insurance company. It was his recommendation, along with the insurance company, that this matter be settled in that amount. Mr. Noblach questioned if the Chief was indemnified. Attorney Backenstoe confirmed that he was. Mr. Noblach commented one the things he is concerned about is that situation would deter the Township from hiring another female officer. Female officers can play a vital role in a department and he would hope that this would not deter the Board from hiring another female officer. Mr. Noblach questioned if there were other investigations of police department employees taking place or scheduled to start and can more lawsuits be expected. The insurance company paid once; will they pay twice? In his opinion, the settlement of this lawsuit shocked the community, and he believes that for the Lehigh Township Police Department to continue to provide the service and trust that people have in them, someone needs to provide whatever answers can be provided in order to stop the rumors on Facebook. If people understand what is going on, they can accept things. If they don't understand, the rumor mill starts and things keep snowballing. The Board commented as part of the settlement, neither side is permitted to talk about it.

Monica Brown commented she has an insurance background; she has worked in insurance all her life. What people need to understand, the insurance company does this all the time. They are representing the Township and it is their money that is going out the door. Insurance companies and their attorneys do this all the time. They have lawsuits that are greater than what was paid out. There are times where it is one person against another and did they do wrong. When you go to court, you don't know which way the jury is going to go. They may side with her or they may side with him. If they side with her, you may be looking at \$5 million versus the \$1.75 million that was settled. They are doing their best job for the Township because it is their money that is going out the door. The insurance company knows what they are doing. They are not just settling for the purpose of giving \$1.75 million. They are saving money because if it goes to court it could cost more so they are happy to have a settlement to not risk more of the Township's money. It's just the way it works.

Tracy Hoffman commented it is disturbing that this is happening to women. She read the report document and there are a lot of items in it and any one of which would have resulted in termination where she works. She doesn't know why the Chief is still in office? Her daughter interned with the police and it was a wonderful experience for her and she is horrified that it could have been her. This type of treatment of women has to stop. It is unacceptable in the work place and we cannot stand for it.

Kim McGonigle commented at the last meeting there was a vote to hire another labor attorney. Did the other one get fired? Are we now retaining two attorneys? The Board

commented they did not fire an attorney and neither attorney is paid a retainer. The Township pays them only when they do work for the Township. Kim McGonigle questioned why the Township needed a second labor attorney.

Wendy Kleintop questioned how soon the \$275,000 will need to be paid. The Board commented at this point, they don't know when it needs to be paid. Ms. Kleintop questioned where the money will be coming from. Is there a lot of money in a bank account where this can be pulled from? Cindy Miller commented the Board has not discussed where the money will be pulled from. Ms. Kleintop questioned if there is still COVID money. Alice Rehrig commented there is approximately \$800,000 in COVID money. Ms. Kleintop questioned if there wasn't a deadline in which the money must be spent. Cindy Miller commented the funding must be committed by the end of next year. If there is a concern that the Township taxes are going to go up, they will not be.

A resident commented there are three candidates going through the academy under the recommendation of the current chief. She is a bit concerned about them learning under his actions. What kinds of habits will be picked up? Janet Sheats commented the Chief takes the applications, but the Board has the final say on who they do or don't hire. Cindy Miller commented new hires are also with other officers in the department for a certain time after they are hired. These officers are trained to be trainers. The resident commented you can look for candidates outside the Allentown Academy. The Chief never contacted Lackawanna Academy and there currently is a class in session.

Jamie Andrews questioned if the Chief was reprimanded for this lawsuit. The Board commented they cannot speak about personnel matters.

A resident wanted to raise a concern about the yard waste site being closed for three months. There is no where for the residents to take their yard waste after the winter storms. Mike Jones commented residents are able to take their material to the First Regional Compost Authority on Weaversville Road.

- IX. ADJOURN. Cindy Miller made a motion to adjourn. David Hess seconded the motion. All voted aye. Motion carried.