

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

July 9, 2024

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, July 9, 2024, at 7:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport Pa. 18088. Cindy Miller called the meeting to order with the Pledge of Allegiance and roll call.

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

Absent: Mike Jones
David Hess

II. APPROVAL OF THE MINUTES

- A. Minutes of June 25, 2024. Janet Sheats made a motion to approve these minutes. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

III. APPROVAL OF BILLS.

- A. General Fund Checks 27884 to 27921. Janet Sheats made a motion to approve these bills. Jerry Pritchard seconded the motion. All voted aye. Motion carried.
- B. State Fund Checks 1603 to 1605. Janet Sheats made a motion to approve these bills. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

A. Extension of Time for Plan Approval

1. Riverview Self Storage/David Wasko Land Development. Jason Butko of Ott Consulting was present to represent this plan. The developer is granting the Board an extension of time until December 31, 2024. They have finally been able to meet with PennDOT at the site and it was a positive meeting. They need to wait for a jurisdictional determination to come through. They met on site with the Army Corp of Engineers in November 2023. At that time, they were told it would be a four to six month wait for the determination; then they were told earlier this year that the determination was on hold and have recently learned that it is on hold until September of this year. There apparently is a court case taking place at

a site with a similar situation as this site with a perennial stream running through it. Because of that, this site was tagged and put on hold. There is nothing they can do about this. Janet Sheats made a motion to accept the extension of time until December 31, 2024. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

- B. Sedler Design & Redevelopment/M&U International. The deadline to record this plan is July 31, 2024. Mike Muffley commented he needs to wrap up a few items pertaining to the cost estimate for the developer's agreement. He expects to complete the review this week. Once this is completed, the plan will be ready for recording. He has spoken with Mr. Sedler and they are planning on getting the plan recorded prior to the end of the month. Because of the covenants that were placed on this plan, they will be able to record the plan without the PennDOT HOP. No action was taken on this plan.

V. DEPARTMENTAL/ORGANIZATIONAL REPORT

- A. Recreation Report. Sandy Hopkins provided a written report indicating that the Blue Mountain Fish and Game held a basket raffle and as a result of the raffle they made a contribution of \$1,800 to the Recreation Board.

On Saturday, July 13, the Mens Senior League will be holding an All Star event at Berlinsville Park. There will be various activities throughout the day and the Recreation Board will have the refreshment stand open.

- B. Public Works. Frank Zamadics reported the Public Works Department is still working on completing the paving work that is needed prior to starting the oil and chip project. The oil and chip project is expected to take place in mid-August.

Cindy Miller questioned what the oil spill was on Washington Drive. Frank Zamadics commented a garbage truck blew a line and the Public Works Department had to assist the Fire Company with putting down sand and then sweeping it up.

- C. Zoning Report. Liz Amato reported in June, there were 63 new permit applications, 52 permits issued and 12 new complaints. There was a second zoning hearing board meeting for a special exception for a home occupation notary office, a front yard setback variance for an ag building which was approved, and a use variance for a cell tower. All of these requests were approved. There are no hearings scheduled for July. She has received an application for August for two principal uses on one lot in the A/RR district.

The advisory for the principal solar project on the McBride property was at the Planning Commission last evening. The conditional use hearing for this project needs to be scheduled. It was agreed that the conditional use hearing would take place at 5:30 on August 27.

Cindy Miller questioned what happens after a complaint goes beyond the extension date. Liz Amato commented once it goes beyond the extension date, it would go to a citation at the Magistrate.

- D. Police Report. Chief Fogel commented he has previously reported that the call volumes and types were increasing for the year. Over the past month or so, things have leveled off and stabilized. Right now, it is a matter of getting our new officers up to speed and trained. The two new officers who are now on the road by themselves are doing very well with everything. The two officers who are currently in field training are also doing very well and learning a lot. Our newest cadet just started the academy yesterday.

Today, Detective Matthew Enstrom retired from the Department after 29 years of service. He has served the Township admirably and would have done anything for the Department or the Township. He and Officer Manogue who retired last month both received proclamations from Representative Mako on behalf the State House of Representatives for their years of service with the Township and Officer Enstrom also serving in the Army and Officer Manogue serving in the Marines. Both of these officers have done an outstanding job with the department regardless of what type of call it was or how difficult it was.

National Night Out will be on August 6 from 6:00 p.m. to 9:00 p.m. The theme this year a Safe Night in the Country. The Steel Creek Band will be playing and there will also be a mechanical bull and other country themes.

- E. Municipal Authority Report. Carl Sharpe was present to represent the Municipal Authority.
1. Authority Refinancing. Attorney Backenstoe commented he received a call from Attorney Andres questioning if the Board was in agreement in acting as a guarantor for the Authority's refinancing of their existing loan. He explained to Attorney Andres that he believed the Board was in agreement based on the conversation at the last meeting, but there was no official action taken on it and there may be questions and concerns. As he understands it, there was a refinancing back in 2017 or 2018 and the note became due and the Authority did not pay the balloon payment. They are in the process of refinancing the balance. The bank is asking the Township to act as a guarantor because the Township has taxing authority and the Authority does not. The two things that Attorney

Backenstoe thought were critical to the Supervisors were that there would not be any cost to the Township and that the Authority would provide bond counsel to do the work because financing under the Local Unit Debt Act has become quite complex and specialized. Attorney Andres has indicated that the bond counsel for the bank will be taking care of all the paperwork that needs to be submitted to DCED. At this point, it would be appropriate for the Board to take action because they are ready to proceed and the bank is ready to reissue the refinancing on the condition that the Township guarantees it. The Township's guarantee will not be finalized right away, but they will refinance the loan on the Township's promise to guarantee the loan.

Cindy Miller questioned if all the funds from the previous loan were spent. Carl Sharpe indicated that it was spent. It was for redoing the water lines in Treichlers. Jerry Pritchard questioned if there was a balance left from the loan. Attorney Backenstoe commented the original loan was to make improvements so all of the money was spent; there is not a cash balance. All that is left is the balloon payment that came due to pay the loan off. They are not getting more money; they are just refinancing the balance of the loan.

Jerry Pritchard questioned what repercussions there could be? He doesn't blame one person, but it has been how many months Cindy Miller asked them to come to the meetings and update the Board as to what is going on. If there was more communication with the Board, we may not be in the position that we are now. What is going to change going forward? Janet Sheats commented that there would be a condition that they have to come in quarterly and give the Board a report and she believes they already agreed to that. Carl Sharpe acknowledged that they would. Attorney Backenstoe commented the Authority needs to be more attentive to these things. It was an oversight, a mistake. Having them attend meetings would not have made a difference. He doesn't believe the Board's requests are unreasonable by having them pay any expenses incurred by the Township for guaranteeing the loan, having them provide bond counsel at their cost, make quarterly appearances before the Board and keep them up to date on other matters.

Cindy Miller questioned if, as money is received on the outstanding accounts, it could be a condition that they put that money to the principal of the loan so that the Authority is focused on paying the loan off. Carl Sharpe commented the debt is all on the sewer side of the Authority. Since there is no water associated with the sewer customers, they can't shut off the water to get them to pay on their sewer bill. The outstanding amount that is owed is mostly over seven or eight people who haven't made a payment in years. All the Authority can do is keep their liens up to date. Eventually they will get their money, unless they move

forward to take their property and that is not always a feasible option. They have also considered filing theft of service charges, but that could also become quite messy. Jerry Pritchard questioned where the Municipal Authority would fall in line with payment on the liens. Attorney Backenstoe commented they would fall behind the mortgage company which is why moving forward on a sheriff sale is difficult because the Authority would have to pay the mortgage.

Cindy Miller questioned what the plan is for spending the proceeds of this loan. Carl Sharpe commented they are not loaning any additional money other than what is owed on the current loan. It is just a refinance. The monthly payments will be less than what they currently are paying so making the payments are not a problem. Attorney Backenstoe questioned if this is another balloon payment or will it be regular payments to the end. Carl Sharpe commented he didn't know, but he thought it went to the end. Jerry Pritchard commented that is something that should be known so there are no surprises at the end. Janet Sheats commented she does not feel comfortable approving something without knowing what the details are, especially whether or not if it is a balloon payment. Attorney Backenstoe commented that could be a problem since the bank and the Authority are ready to sign the refinancing. Attorney Andres did not have details other than the terms are very favorable and the payments are much less than the current loan payments. Cindy Miller questioned if the Authority will be able to build in additional principal each month so that they don't get caught with a balloon payment at the end. Carl Sharpe commented that shouldn't be a problem. Jaidl will be a water customer and once that project is started, their revenues will significantly increase.

Janet Sheats made a motion to act as the guarantor for the refinancing of the loan for the Municipal Authority with the condition that the Township incur no costs as a result of the refinance, the Authority provide bond counsel to provide the ordinance and paperwork as required by DCED under the Debt Act, Authority quarterly reports to the Township to update them on various activities of the Authority, and that the Authority be more attentive and provide as part of their reports their compliance with the terms of the refinance. Jerry Pritchard seconded the motion. Janet Sheats wanted to commend Carl Sharpe for taking responsibility for this. Carl Sharpe commented the bank should have provided them with a 60 day notice and the Authority let it slip and didn't think of it so, yes, it was their fault. John Knobloch questioned if there could be monetary damages placed on the Authority if they don't show up for a meeting. Attorney Backenstoe commented that is not something that is authorized under the Second Class Township Code. All voted aye. Motion carried.

- F. Fire Company Report. Rick Hildebrand provided the Board with a quarterly report of their activities. They responded on 51 EMS runs and 82 fires for a total of 133 calls. As of today, they have responded to 280 calls for the year. Out of the fire calls, there was \$71,200 in losses which was essentially a few sheds with lawn mowers in them. They also responded on numerous building calls. They provided mutual aid to other departments 23 times and needed mutual aid from other departments 12 times. There were two motor vehicle accidents with entrapment and 22 medical assists.

VI. OLD BUSINESS

A. Maintenance Building

1. Billitier Electric, Payment Request #9. Janet Sheats made a motion to approve Payment Request #9 from Billitier Electric in the amount of \$31,500. Jerry Pritchard seconded the motion. Jerry Pritchard questioned if we are getting to the point of the project being finalized. Alice Rehrig commented they haven't had the final inspections yet because some of the testing is not being completed until this week. Janet Sheats questioned if there was a date for the final inspection. Alice Rehrig commented it hasn't been scheduled yet, but believes they are trying to get something scheduled in the next week or so. Paul Nikisher questioned if there is a total of the extras that we needed to pay for the building. Alice Rehrig commented the items that were contractor related was \$49,000. The only other item that was extra was the redoing of the access road which was not part of the initial bid. All voted aye. Motion carried.

VII. NEW BUSINESS

- A. Awarding of Bids for Fuel Island. The fuel island was put out to bid for the second time and only one bid was received in the amount of \$221,500 which is \$18,000 lower than the first bid. Cindy Miller commented the bid still seems to be high. Alice Rehrig commented when we started looking at the fuel island about three or four years ago, the price we were looking at was around \$125,000, but that did not include prevailing wages. Mike Muffley commented he has spoken with this company quite a few times regarding the bid and they do a lot of this type of work. He would recommend that they are a capable contractor for doing the work. He would agree the bids seem a little high, but that may be the market right now. Janet Sheats made a motion to award the bid for the fuel island to Pine Run Construction at a price of \$221,500. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

- B. Resolution 2024-14. Cindy Miller commented she read over the resolution and doesn't believe the Board is ready to vote on this. She as one supervisor is not ready to vote on the resolution as she is not in agreement with some of the items in the resolution. Janet Sheats made a motion to table the motion. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

- C. Manager's Report. In addition to her written report, Alice Rehrig reported she received the first reimbursement for the RACP grant.

Cindy Miller commented she noticed in the report Frank Zamadics was trained on the generator. Will others from the Public Works Department be trained on the generator. Frank Zamadics commented everyone who was available was trained.

Cindy Miller questioned what was going on with the taxes for the Blue Ridge Rod and Gun Club. Alice Rehrig commented the gun club was one of the properties who was turned over to the County in error and are in the process of trying to get that cleared up.

- D. Solicitor's Report. Attorney Backenstoe did not have anything additional to report.

- VIII. PUBLIC COMMENT. John Knoblach questioned what was going on with the tax collector. His in-laws moved in with him about four years ago and have never received a per capita tax bill. They did the moving permit but have never received a bill. Cindy Miller commented they would need to follow up with Mary Trexler, the tax collector, because she is an elected official and not an employee in the office.

John Knoblach also noted that you no longer can make comments on the police Facebook page. He would have liked to wish Officer Enstrom well on his retirement. Cindy Miller commented the comments were stopped because it was being abused. The page is for informational purposes, not for people to go on and abuse the police, the township or whatever is going on with the page. Janet Sheats commented most of the posts are also placed on the Neighbors page or Community page and comments can be made there.

Katherine Mack noted that the new zoning regulations have now been codified and are now current.

Katherine Mack wanted to propose to the Board that they participate with Act 172 which provides for tax incentives for volunteer fire fighters. The Act allows Townships to provide rebates on the real estate tax or the earned income tax. There are a number of parameters on how this can be done and it even includes people from outside the Township if they are involved. She believes that this should be considered since our fire department is one of the biggest and best around. Volunteerism is really dwindling and this may provide for an incentive.

Katherine Mack also did some research on the information that needs to be provided for an executive session. She knows the Reading Eagle case is mostly about pending litigation, but it also refers to personnel. They do say that more than just one word needs to be provided for an executive session. It needs to give the citizens more information.

Attorney Backenstoe commented he is very familiar with the case and it is about litigation. He has already said that you cannot just say litigation. It must be readily identifiable. You need to state the name of the case. When it comes to personnel, he will respectfully disagree. The passage that is cited in the Reading Eagle case is from a case in Mississippi, not Pennsylvania law and not truly applicable to Pennsylvania. He has taken the position that when a Board is talking about an employee in executive session, that it not be divulged because that is the purpose of discussing something in executive session so that someone's personal issues are not discussed publicly. If the Board is going to take action on something that is detrimental to a person, you need to give that person notice and explain to them that they will be discussing it and could be taking action and give them the opportunity to have it discussed during the meeting. Any official actions must be taken during a public meeting. He will err on the side of protecting the person with whom they are discussing more than the citizens who want to know what it is all about. Cindy Miller commented that the Solicitor has made his ruling on personnel and executive sessions so there is not need for additional discussions on the topic.

Paul Nikisher commented the job that the maintenance crew did on Hickory Road is commendable. He would have liked to see the entire roadway done.

Paul Nikisher questioned what kinds of construction is taking place at the Catholic Church. Cindy Miller commented it is going to be a Stations of the Cross garden.

- IX. EXECUTIVE SESSION. The Board went into Executive Session to discuss personnel. No action was taken.
- X. ADJOURN. Janet Sheats made a motion to adjourn. Jerry Pritchard seconded the motion. All voted aye. Motion carried.