

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

October 10, 2023

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on October 10, 2023, at 6:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport Pa. 18088. Vice Chairman Cindy Miller called the meeting to order with the Pledge of Allegiance and roll call.

Present: Cindy Miller
David Hess
Jerry Pritchard
Attorney David Backenstoe
Mike Muffley
Alice Rehrig
Liz Amato
Frank Zamadics

Absent: Mike Jones
Phil Gogel

Cindy Miller requested a motion to amend the agenda to remove Ordinance 2023-7 pertaining to recreational marijuana from the agenda and table it for this evening. There are errors in the ordinance. David Hess made a motion to remove Ordinance 2023-7 from the agenda. Jerry Pritchard seconded the motion. David Hess questioned if it will be on the next agenda. Alice Rehrig commented it will probably be on in a month because of the advertising requirements. Jerry Pritchard commented he agrees with the tabling of the ordinance. Based on what took place at meeting at the firehouse, we want to make sure we have everything so that it is legally binding, but at the same time, protective of the community. Planning or their Solicitor need to go over the ordinance one more time. Cindy Miller commented the Planning Solicitor will be going over this to make the corrections. He has taken full responsibility for the errors. He will be making the changes and getting it back to the Board for an additional review. Cindy Miller also noted that the Senate of Pennsylvania has passed that the growers and processors of medical marijuana can now sell directly to the consumer. It has not yet passed the House. Katherine Mack questioned why the ordinance was not tabled before now. Cindy Miller commented there was no reason to table it earlier. The ordinance is before the Board and upon their review, they found errors. Katherine Mack noted the errors may have been found if it wasn't a quick fix. Cindy Miller commented it wasn't a quick fix. There is a lot going on in the Township. People are spread thin; everyone is doing their best. The Solicitor took responsibility and will be paying for what needs to be redone; there is no harm or foul. Katherine Mack questioned what the Lehigh Valley Planning Commission had to say about the ordinance. Cindy Miller commented there were no comments from them. All voted aye. Motion carried.

- II. 2024 BUDGET DISCUSISON. Alice Rehrig commented she now has the budget and the capital improvements plan matching. There were two areas that had to be adjusted under the capital improvements plan. One area was the computers for the Police vehicles. Because of the cost of the computers and mounts, if needed, it would have required significantly a higher expense in 2024 and then much lower in 2025. In speaking with the Chief, he preferred to split the updating of the vehicle computers over two years and then also split the updating of the office computers. By doing this, you won't have all of one type of computer aging out at one time and it also helps keep the budget more level. The other area where there were a lot of adjustments made was in the Public Works Department, large equipment purchases. Because of how expensive trucks and equipment have become, she has had to push out certain items. Two examples are the paver and roller because they are not used as hard as the trucks. Depending upon what is available when they reach the point of not being able to be repaired, we may need to look into other options such as renting the equipment rather than replacing it.

David Hess questioned if the equipment is still maintained if it is not used. Alice Rehrig commented they pull the equipment out each year for maintenance. She doesn't believe there was a year where they didn't actually use the equipment.

Alice Rehrig also provided the Board with a summary page for the capital improvements. There are some years where the expenses are higher than other years, particularly 2025 and 2028. She will be looking at those two years to see what could be done to try to bring those expenses down to keep the capital more level each year.

Cindy Miller questioned if the police truck is part of the DUI grant. Alice Rehrig commented the truck is not part of the grant, but it is used to pull the command post. The main purpose of the truck is for the scales when they are out weighing trucks and doing inspections and also used in the winter because it is four-wheel drive. Cindy Miller questioned why it wasn't part of the grant. Alice Rehrig commented when it comes up for replacement, there may be a way of including some funding towards it, but it could get complicated because typically the equipment bought through the grant become part of the program so if the program ever leaves the Township, we would have to repay the grant. When the program started years ago, the vehicles were not included in the grant. We had the Expeditions that were used for towing the trailer. Cindy Miller commented these are the type of things that need to be watched when applying for the grants. We need to be aware of what is and isn't included as part of the programs.

Cindy Miller questioned if there was a line item being included under the different departments for legal. Alice Rehrig commented she did not include one as part of the initial budget. She included an allowance in the overall budget so that the labor attorney can be consulted as things come up. If there is an actual grievance filed, then a budget amendment will need to be done to establish the funding for the legal expenses.

Jerry Pritchard questioned if competitive bidding is being done for the equipment rather than going to the same person all the time. Alice Rehrig commented we typically get three estimates through Co-stars. Generally, when there are specific packages with limited choices, such as police cars, there really is not much of a difference in price. Where you see the greatest difference is when you are looking for more general items, such as a loader or backhoe. Then you can get pricing from different manufacturers.

Cindy Miller commented there was discussion regarding creating a recreation plan, but she is not seeing where something was allocated for a plan. Alice Rehrig commented she has included \$10,000 in the Recreation Capital line item. Her thought was that we could look into getting a grant for a recreation plan and assumed there would be a match requirement so she included the \$10,000 to be used as a match towards the plan. A ballpark for doing a plan, including survey work is \$50,000. If you are looking at obtaining an NPDES permit, that would be approximately an additional \$25,000. Jerry Pritchard commented when this plan is developed, we really need to think it through and make sure it is something that we will be able to pull off. We already paid for a plan for Delps once already. Cindy Miller commented plans need to be updated because things change. The one we have for Delps is 15 years old.

III. EXECUTIVE SESSION. The Board went into Executive Session to discuss a personnel matter. No action was taken.

IV. APPROVAL OF THE MINUTES

A. Minutes of September 26, 2023. David Hess made a motion to approve the minutes. Jerry Pritchard seconded the motion. Cindy Miller commented she can't vote on the minutes because she was not at the meeting. David Hess withdrew his motion to approve the minute and made a motion to table the minutes. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

V. APPROVAL OF BILLS.

A. General Fund Checks 27163 to 27211. David Hess made a motion to approve these bills. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

B. State Fund Check 1589. David Hess made a motion to approve this bill. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

VI. PLANNING RELATED ITEMS

A. Extension of Time for Plan Approval

1. Timothy Pitts Land Development. David Lear was present to represent this plan. The developer is granting the Board an extension of time until March 31, 2024. The reason the extension is needed is to complete the NPDES permit approval process. As they had reported to the Board the last time they were before them,

they have completed the Bog Turtle study. Their NPDES application is now into DEP through the Conservation District. This process takes a minimum of six months to complete. They are currently in the administrative review portion of the application. This process takes four to five months to complete. Jerry Pritchard made a motion to accept the extension of time until March 31, 2024. David Hess seconded the motion. All voted aye. Motion carried.

B. Plan for Approval

1. Walnutport Land Partners (Melo Enterprises/Solar Renewable Energy). Joe Burget of Burget Associates was present to represent the plan. The plan was before the Board for a conditional use approval several months ago. Since then, they have submitted their land development plan to the Planning Commission and received conditional approval with about six conditions, one of which is getting approval from Lehigh Valley Planning Commission and NPDES approval from Northampton County Conservation District. Both of these items have been submitted. Condition #3 was to obtain an easement agreement from Weis for the driveway access. Weis did not grant them an easement so they have revised their plan to have an entrance that is solely located on their property. They are required to pay a recreation fee and also enter into an improvements agreement. They have submitted a cost estimate for the improvements to the engineer. They will be holding back on submitting until after they receive their NPDES permit because there may be additional requirements associated with the permit. The current cost for site improvements is around \$80,000. The estimate for decommissioning is around \$97,000, although Mike Muffley believes that amount to be a little low, so they have been working with him on the amount. They will also be installing a KnoxBox at the entrance to the site in addition to providing training for the Fire Department.

Cindy Miller commented she is concerned about approving the plan without knowing what the decommissioning costs will be. It will fall back on the engineer as to what the amount will be and the Board will have no idea what the costs are. When the panels go in, there is a 25 to 30 year life span on the panels so there has to be an escalation built in, but the Board has no idea what the starting point is. David Hess commented he is concerned with approving the amount at \$90,000, but when they need to be decommissioned in the future, the money may not be enough and it will fall back on the Township. Mr. Burget commented other Townships are adding a condition that the amount be reevaluated every five years.

Attorney Backenstoe commented when a development comes in with public improvements, a Board often will grant a conditional approval subject to the developer entering into an improvements agreement. The improvements

agreement is always conditioned upon the developer submitting a cost estimate which is subject to approval by the Township Engineer. Very rarely, almost never, does the Board have the cost estimate when the plan comes before them for conditional approval. Having said that, this is not that unusual in the sense that it is another cost which is a condition of the conditional approval for the zoning and another condition in granting the plan conditional approval, similar to when a cost estimate is provided for roads, detention ponds, etc. in a traditional development. At this point, he is not worried if they submit a cost estimate to the Engineer and he says it is not good enough, they resubmit, and he reviews again, and so on until he approves it. The final cost estimate will be secured in the same manner as all the other public improvements. If the Board, however, has a concern because this is a new type of project and different and want them to have a cost estimate in place before granting the conditional approval, the Board does have that right. Cindy Miller commented she wants to avoid getting into another situation like the Hills at Greenock. Attorney Backenstoe commented that if the Board were to grant conditional approval tonight, they would not be approving any numbers. The Board would only be approving the concept and he and Mike Muffley would work on the final numbers and wording until they are satisfied that the Township is protected. The Board is only granting approval to the concept that decommissioning is needed and an amount is needed subject to approval by the Township Engineer. Cindy Miller commented she likes the idea of reevaluating the amount of security that is needed. With the way the costs and labor have gone up over the past few years, there is no way the amount that is set today will be enough in 25 years. Attorney Backenstoe commented if the escalator is in place and Mike Muffley determines it needs to be increased, they will either need to increase the amount of security or it will have to be decommissioned using the money that is currently in place. Cindy Miller commented she would prefer to reevaluate the costs in three years rather than five years because of the way costs have been going up.

Jerry Pritchard made a motion to grant this plan conditional approval subject to the Planning Commission's letter of recommendation dated August 22, 2023, except for Item #3 which is no longer applicable, Hanover Engineering's review letter dated August 14, 2023, and the conditions established at the Conditional Use Hearing. David Hess seconded the motion. Eric Bohannon, 1064 Del Drive, questioned if this approval will set a precedence for the overall Township for other projects like this one that may be coming in the future. Cindy Miller commented the Township has an ordinance that is ready to be passed to have principal solar systems removed from all zoning districts except for the Industrial District. Attorney Backenstoe commented there is no precedence set. When an application comes into the Township for any use, it must comply with the Zoning Ordinance, SALDO, and any other regulations in effect at that time. If a plan

comes in under Ordinance A, it must comply with Ordinance A. If Ordinance A is changed to Ordinance B at some point, a development that comes in at that point must comply with Ordinance B, not A because that ordinance was changed. That is why you will hear about a rush to file by developers. They want to get their plan in when they hear there may be an ordinance change. This happens in all Townships. Jerry Pritchard commented if a plan was filed now, that plan would fall under the same ordinance requirements as this development. Cindy Miller commented if the ordinance that is on the agenda for tonight's meeting is adopted, then anything filed after tonight will be subject to the new ordinance. All voted aye. Motion carried.

- C. Engineer's Report. Mike Muffley reported the Planning Commission had one plan, the Dalton Lorah Minor Subdivision, for review at their meeting.

The construction progress on the building continues as scheduled.

VII. DEPARTMENTAL/ORGANIZATIONAL REPORTS

- A. Recreation Report. David Hess reported the Christmas Tree Lighting is scheduled for December 2. The Lions will be serving hot dogs and hot chocolate and the Lioness will be having a candy cane hunt for the kids. They will be working on finalizing everything at their meeting next week.

Katherine Mack questioned what the status was of the signs that were submitted for some of the parks. Alice Rehrig commented the signs have been received. The Public Works Department will be building the frames for the signs.

Katherine Mack questioned the Recreation Board projects in the budget. When the Recreation Board wants to purchase something, they need to submit it to the Board of Supervisors. She would like to see shelters installed at the dog park for people who use the park when it is sunny. Why couldn't the shelters be purchased out of the \$36,000 that is included in the budget? Cindy Miller commented they are in the process of working on a plan for all the parks. It needs to come into a plan for development. Whether or not the Board wants the shelters to be included for a park needs to be included in a plan. The Township cannot keep piecemealing the development of the parks. David Hess commented the Rec Board has been focusing their attention on the repairing of the wall. Cindy Miller commented nothing regarding the shelter has been brought to the Board. Besides, purchasing the shelter, who will be installing it and what is the total cost? Jerry Pritchard commented she should bring this to the Recreation Board so they can work with her on this. Katherine Mack commented she would like to see improvements for the dog park because a lot of people use it. There is no shelter there for people to get out of the sun.

Linda Roman suggested that when the park development plans are being made, they should include something for the teens to do, especially at Indiantrail Park. They are at the park turning the water on, pulling the paper towels and tissue and throwing it all over the place because there is nothing for them to do. She has seen four teenagers doing this at the park.

- B. Public Works Report. Frank Zamadics reported the Cottonwood Road project has been completed. They do have some minimal shoulder work to do. The crew is currently in the process of cleaning up the shoulders along Indiantrail Road and Church Road. It was also brought to his attention that there is a large tree in that area that is in rough shape. He will be looking at that tree to see what needs to be done and whether it is in right of way or on private property. There is also one in Indiantrail Park that will need attention as well.

The crew is getting ready for leaf season and the winter season.

Frank Zamadics has been in touch with Sandy Hopkins regarding a tree for the Christmas Tree Lighting. They are planning on getting a cut tree for this year. They are also considering planting something smaller for future tree lighting. They did consider transplanting a tree from Delps, but after taking measurements, the tree was much larger than what they would be able to handle.

- C. Zoning Report. Liz Amato reported there were 34 new permit applications received 36 permits were issued, and 9 new complaints were received in September. A use variance was received for a short-term rental in the GC District will be before the Zoning Hearing Board in September.
1. Authorization for Township Engineer to Review Conditional Use Application and Attend Hearing. At the last meeting, Liz Amato reported she received a conditional use application for a principal solar energy system. The applicant is BWC Hokenquaqua Creek LLC. The property owner is Michele McBride Casale. After taking a brief look at the plan, the property consists of two parcels and is located in both Lehigh Township and Moore Township. The principal use of the house is located in Moore Township. Moore Township is the taxing agency and the access to the site will be in Moore Township. Since the project is located in both Townships, it was suggested that representatives from Moore Township meet with Liz Amato, David Backenstoe, and Mike Muffley and look at this plan together to determine the best way to proceed with the application before setting up the conditional use hearing. Based on this, Liz Amato is requesting authorization from the Board to have Mike Muffley conduct a review of the plan and to attend the Conditional Use Hearing.

David Hess made a motion to authorize the Township Engineer to review the conditional use application and attend the hearing. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

Liz Amato noted that the ordinance which changes the zoning district in which a principal solar energy system may be located is on the agenda for adoption at this meeting. The only application for a principal solar energy system that she received prior to tonight's meeting was the one submitted for Michele McBride Casale's property. If the Board adopts the ordinance at this meeting, any applications received after tonight will fall under the new ordinance.

- D. Police Report. This was tabled until the next meeting.
- E. Municipal Authority Report. There was no report.
- F. Planning Commission Report. Cindy Miller commented she was not at this month's meeting so she did not have anything additional to report beyond what was reported by Mike Muffley.

Liz Amato commented there was an advisory report at the Planning Commission for a home application that will be before the Zoning Hearing Board in November.

- G. Fire Company Report. Rick Hildebrand reported there were 138 calls in the third quarter which included 17 fires, 56 medical/motor vehicle accidents, 22 hazardous conditions such as trees on wires, storm damage; 12 service calls which could be assisting police or other agencies, 12 good intent calls, and 20 false alarms, and 1 severe weather call. They are projecting to have a year end total call volume of 520 to 530 calls which would be an all time record number of calls. The last time they reached over 500 calls was after a hurricane went through and there were 100 calls in 24 hours.

The Ford chassis for the grant truck was received by the manufacturer and they have a projected delivery date of January.

Rick Hildebrand wanted to confirm that October 18 will be the date when the Board will meet with the Fire Company. The Board confirmed that to be the date. Jerry Pritchard commented the public does need to know about the implementation of a fire tax. He doesn't want them to be blind sighted. Rick Hildebrand commented the Fire Company can prepare a letter and have it mailed to all the residents prior to the tax being enacted. Katherine Mack commented the public should have already been

made aware of the fire tax. Cindy Miller commented the details of the tax have not yet been worked out. Once the Board knows the details of the tax, they will hold a public meeting at the Fire Company for the public.

Rick Hildebrand commented the Fire Company will be attending the local Halloween parades handing out candy. They will also be attending the Tree Lighting. David Hess commented he would like to see the Fire Company have a table with information.

VIII. OLD BUSINESS

- A. Maintenance Building. David Hess questioned if the construction is still moving forward according to schedule. Alice Rehrig commented it is still pretty much on schedule; it may be off by a few days from what was initially planned.
1. Billitier Electric, Payment Request #2. Payment Request #2 in the amount of \$46,550 has been received from Billitier Electric. This request mainly consists of running the conduit under the slab and around the exterior of the building. David Hess made a motion to approve Payment Request #2 in the amount of \$46,550. Jerry Pritchard seconded the motion. All voted aye. Motion carried.
 2. Bracy Construction, Payment Request #4. Payment Request #4 in the amount of \$226,665.09 has been received from Bracy Construction. This request mainly consists of mostly the concrete work and iron for the floor and footers. David Hess made a motion to approve Payment Request #4 in the amount of \$226,665.09. Jerry Pritchard seconded the motion. All voted aye. Motion carried.
 3. Bracy Construction, Payment Request #4A. Payment Request #4A in the amount of \$405,120.01 has been received from Bracy Construction. This request is for the steel frame of the building which is scheduled to be delivered around October 19th. The Board can approve the payment request and hold the payment until after the steel is received on site or table the request until next meeting, after the steel has been received. Jerry Pritchard made a motion to table Payment Request #4A. David Hess seconded the motion. All voted aye. Motion carried.
 4. Livengood Excavators, Payment Request #3. Payment Request #3 in the amount of \$132,048.30 has been received from Livengood Excavators. This payment request is for the balance of the excavation at the site, including the oil separator and exterior trenching. Jerry Pritchard made a motion to approve Payment Request #3 in the amount of \$132,048.30. David Hess seconded the motion. All voted aye. Motion carried.

5. Vision Mechanical, Payment Request #2. Payment Request #2 in the amount of \$83,769.05 has been received from Vision Mechanical. This payment request is for the sanitary sewer, water, drainage and cleanouts. Jerry Pritchard made a motion to approve Payment Request #2 in the amount of \$83,769.05. David Hess seconded the motion. All voted aye. Motion carried.

B. Ordinances for Adoption

1. Ordinance 2023-4, Amending Zoning Ordinance Chapter 180-71, pertaining to Wireless Communication Facilities. This ordinance corrects inconsistencies within the ordinance, particularly between the verbiage and the charts. David Hess made a motion to approve Ordinance 2023-4. Jerry Pritchard seconded the motion. All voted aye. Motion carried.
2. Ordinance 2023-5. Amending Zoning Ordinance Chapter 180-85.1 pertaining to Medical Marijuana Facilities. This ordinance removes medical marijuana facilities from all zoning districts except for Industrial. David Hess made a motion to approve Ordinance 2023-5. Jerry Pritchard seconded the motion. All voted aye. Motion carried.
3. Ordinance 2023-6, Amending Zoning Ordinance Chapter 180-107(B) and (C), pertaining to Principal Solar Energy Systems. This ordinance removes principal solar energy systems from all zoning districts except for Industrial. Liz Amato noted that this ordinance only pertains to principal solar systems and does not affect the individual who wants to add solar to their roof. Cindy Miller made a motion to adopt Ordinance 2023-6. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

IX. NEW BUSINESS

- A. Manager's Report. Alice Rehrig reported the bids for the fuel system was pushed back by a week in order to provide additional information to the bidders.
- B. Solicitor's Report. Attorney Backenstoe did not have anything specific to report. He has been working with Mike Muffley on getting cost estimates and developing the needed agreements for various developments, one of which is Top of the Mountain.

As the Board may recall, Northwoods had an oddity with their plan and it needed to be revised. It did not material modify the plan so the Board allowed Mike Muffley and him to work on that. They have now submitted a revised plan and Mike Muffley is in the process of reviewing the plan. They have also submitted the required easement agreement which they are currently reviewing. Jerry Pritchard commented it is noted on their plan that they are supposed to install a fence next to the adjoining

property owner. Why wouldn't they put the fence up first to keep a good relationship with the neighbors? Mike Muffley commented he understands the benefit, but items such as fencing are typically put up as part of the landscaping plan.

Vineyard Estates fronts on an existing Township road so no improvements agreement will be required; however, they are having some issues with their NPDES permit and he and Mike Muffley are working on language to be placed on their plan to put future property owners on notice and protect the Township.

- X. PUBLIC COMMENT. Katherine Mack questioned if anything has been set as far as a date for the Karafam appeal. Attorney Backenstoe reported Attorney Ettinger praeciped the appeal for November 21 which means Karafam has to have their brief submitted 25 days before the hearing.

Katherine Mack questioned why Ordinance 2023-7 was not read any sooner. Attorney Backenstoe commented there were several ordinances that were in the process of being reviewed. When he first read the ordinance, he thought something didn't seem right, but he really didn't know that it was wrong. He called Michael Corriere, who wrote the ordinance, and he told him he felt terrible; he had made a mistake. He meant to have Cannabis Business Establishment rather than medical in several places of the ordinance.

Katherine Mack commented there was an ordinance passed a while ago entitled Reflective Emergency Response Signs, which she thinks is a very good idea, especially for the Fire Department when they are needed. These signs are not up all over; she was on Timberline Road and saw there were a lot of properties that did not have their properties marked. The deadline for installing the signs was June 30, 2021. Who is going to be enforcing this and how is it going to be enforced? Alice Rehrig commented when the office is made aware of a property where there is not an address posted, they send out a notice. They don't go driving around specifically looking for people who violated the ordinance.

Linda Roman commented there is a group of kids who have been coming into Indiantrail Park on Fridays and they are making a lot of noise and building a fire along the creek by the pavilions. These kids are there until 2 or 3 in the morning. Alice Rehrig will notify the Chief of the activity.

- XI. ADJOURN. Jerry Pritchard made a motion to adjourn. David Hess seconded the motion. All voted aye. Motion carried.