

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

Minutes of the January 11, 2022, Meeting

- I. **CALL TO ORDER.** The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, January 11, 2022, at 7:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport, Pa. 18088. Vice Chairman Jerry Pritchard called the meeting to order with the Pledge of Allegiance and roll call.

Present: Cindy Miller
David Hess
Jerry Pritchard
Phil Gogel
David Backenstoe
Alice Rehrig
Mike Muffleay
Liz Amato
Scott Fogel
Frank Zamadics

Absent: Mike Jones

II. **APPROVAL OF THE MINUTES**

- A. Minutes of December 14, 2021. Cindy Miller made motion to approve these minutes. Phil Gogel seconded the motion. All voted aye. Motion carried.
- B. Minutes of January 3, 2022. Cindy Miller made a motion to approve these minutes. Phil Gogel seconded the motion. David Hess noted a correction to the minutes under the nomination of Vice Chairman. It was Mike Jones who made the motion and he seconded the motion. The names were reverred in the minutes. All voted aye with this correction. Motion carried.

III. **APPROVAL OF BILLS**

- A. General Fund Checks 25424 to 25475. Cindy Miller made a motion to approve these bills. David Hess seconded the motions. All voted aye. Motion carried.

IV. **PLANNING RELATED ITEMS**

- A. Extension of Time, Goodman/Gertner Annexation. Mr. Gertner was present to represent this plan. They initially provided an extension of time until May 11, 2022; however, they amended the extension of time to expire on May 31, 2022, at the Planning Commission meeting. The Planning Commission provided the Board with a letter recommending this extension of time be accepted.

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Mr. Gertner commented he lives in Edgemont Park. When the park was created, there were roads identified in the park and they are now in the process of trying to determine who owns the roadways so that they can meet the Township ordinances for doing the lot line adjustment because there is an existing shed which would become a nonconformity with the subdivision.

Cindy Miller made a motion accept the extension of time until May 31, 2022. Phil Gogel seconded the motion. All voted aye. Motion carried.

- B. Engineer's Report. Mike Muffley reported there were no new plans received for Planning Commission review in January. At their meeting on January 10, they discussed two advisory reports for the Zoning Hearing Board. One was for a special exception request for H & D Holding Companies at 4988 East Valley Drive. They are proposing a heavy equipment sales use on this site. The second advisory report was for a conditional use for Edgar Lorah at 4739 South Cypress Road.

Jerry Pritchard questioned when the conditional use would be coming to the Board of Supervisors. Attorney Backenstoe commented procedurally, they need to go to the Planning Commission for an advisory report before coming to the Board of Supervisors. The Board would need to schedule the conditional use hearing within 60 days.

V DEPARTMENTAL/ORGANIZATIONAL REPORTS

- A. Recreation Report. Sandy Hopkins commented she didn't have anything specific to report. Their next meeting is on January 17, 2022.
- B. Public Works Report. Frank Zamadics reported the Christmas Tree and lights will be coming down on Wednesday since the ground is frozen making it easier to access the tree.

The Public Works Department will be operating one person short until April because of a medical leave.

Frank Zamadics commented he is having trouble locating a truck chassis to replace the truck with the bad engine and to repurpose the body. Because of the supply issues, no one wants to honor the co-stars or state contract pricing. There is a possibility that they will begin honoring the contracts again by April or May. Occasionally, the dealer gets a build spot that is open, but that spot is usually taken quickly. If the Board were to authorize him to purchase the chassis, he could try to get one of the open slots. If not, we would be waiting until closer to

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summer to order it. Jerry Pritchard commented he has no problem with the purchase of the truck, but would want to see what the price is before we move forward with the purchase. Frank Zamadics commented right now, since they are not honoring co-stars pricing, we would need to pay sticker price. Cindy Miller questioned what the State's position is on this if the vendors are not honoring the pricing. Alice Rehrig commented they were just made aware of this today. She can contact the Department of General Services to see what information they can offer. Cindy Miller commented she would like to know what the costs are to make sure we can meet the Capital Improvements or if we are going to have to pull money from somewhere else. Frank Zamadics commented if the Board would prefer to wait, he has no objection. He is not expecting to see a new vehicle before next year.

David Hess commented he has had residents comment to him that the Public Works Crew did a good job with plowing in the last storm. Frank Zamadics noted they usually try to start as early as they can to try to get most of the roads taken care of by rush hour.

- C Zoning Report. There will be three zoning hearings taking place on Thursday. One is for a short term rental with some additional relief requests, one for solar panels, and the third one is for a front yard setback.

With regard to the two advisory reports from the Planning Commission, one will be going to the Zoning Hearing Board in February. The second is for a conditional use hearing for Lorah's. The Board will need to determine if they want to hold the conditional use hearing on a separate meeting night or before the second meeting in February since the second meeting typically has a shorter agenda. Cindy Miller suggested holding a separate meeting because the Board doesn't know how many people will be coming out to the hearing or how long the hearing may go. Liz Amato will provide the Board with several dates in February to try to coordinate the meeting.

Liz Amato also noted the Planning Commission will be starting to work on updating the Zoning Ordinance in February. If anyone from the public is interested in attending those meetings, the first meeting will be on Wednesday, February 23 at 6:00 p.m.

- D. Police Report. Chief Fogel reported he currently has two more officers who are out of work because of COVID. This is on the heels of a car accident that recently occurred during the bad weather last week. While the car was parked along the roadway at an accident scene with its lights on, a car came in the opposite direction, crossed over the center line and hit the police car head on. The

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officer was out of the vehicle dealing with another accident. The car that was hit was a 2012 vehicle with more than 120,000 miles on it which means the value of the vehicle is low and they probably will be down another vehicle.

Chief Fogel provided the Board with a breakdown of the Department vehicles, their condition, and mileage. 4701, the car he normally drives has over 150,000 miles on it; 4702 is the vehicle which was involved in the crash last year and has not yet been replaced; 4704 is the vehicle that was just involved in the accident, 4705 is the K9 Vehicle. It has no known issues and it is in good condition; 4707 is the marked sedan with over 123,000 miles on it. It has a rough idle, a heater issue, and possibly a knocking in the motor; 4708 is the new vehicle which is fine; 4709 is the vehicle with the blown motor. The replacement for this vehicle is in the process of being upfitted; the only other vehicle is the special service truck which is a 2013, but the miles are relatively low because it is a special service vehicle. The reason he is providing all this information to the Board is that there is a problem within the Department. They only have three vehicles in their rotation right now. Only two that run in a patrol capacity which is leaving them short because there are times when there are three officers on. This will negate their ability to do any type of traffic enforcement. They are at a bit of a crossroads as he had mentioned last year when discussing the budget. They have vehicles which they don't believe are reliable. There needs to be a better, more rigid plan developed for replacing the vehicles and sticking to it. For two vehicles to be here for nine or ten years is a pretty long time, especially with the mileage they have on them. In speaking with fleet managers who deal with police vehicles in other jurisdictions, they will tell you they start developing other problems, such as frame issues or fractures, front ends that go bad. They just become less reliable. He spoke with Ford's regional fleet director and he was trying to find other options such as motor replacement for the department, but he wouldn't touch our vehicles with over 120,000 miles on them; they wouldn't recommend putting another motor into these cars. His biggest concern is that they do not get to a call because of a vehicle problem.

Cindy Miller commented there are three vehicles down because of accidents; not because of mileage. They have tried to get vehicles and are unfortunately faced with the same problems as what is going on in the country with distribution. She doesn't know how we are going to solve this. As a Board, they can spend as much money as they want on vehicles, but we can't get them. It's not that the Board doesn't want to pay for vehicles. They have already committed to two vehicles for this year and now there is another one that was in an accident, and most likely demolished. Thankfully no one was injured which is the most important part, but they are now faced with buying another vehicle. How do you

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solve an issue when you can't get distribution. It has nothing to do with the Capital Improvements Plan and getting vehicles. They were rolling it out fine with the plan.

Jerry Pritchard commented he thought the Board approved the vehicles last year. Chief Fogel commented the Board approved one vehicle, but he was told to come back with pricing for the second vehicle. The quotes he received were within \$500 of each other through the co-stars pricing.

Cindy Miller commented she noticed there were quotes from two relatively local dealerships. Are there other dealerships, maybe up north, where we could get a vehicle from? Are these the only two dealerships we can use? Chief Fogel commented the dealerships can pretty much see what each other's inventories are. Koch is local and Chapman is near Hatfield. There was a third dealership he received some information from. You run into the same problem with all of them as far as getting the vehicles. Cindy Miller questioned if we buy a vehicle from a dealer outside the area, must we take the vehicle back to them for warranty work or can we use a local dealer. Chief Fogel commented it is a manufacturer warranty so we can take the vehicle to any dealer.

Jerry Pritchard questioned what the cost is for the vehicle that the Chief is looking to replace. He wants to see the cost of something before authorization is given to replace it. Alice Rehrig commented the cost of a vehicle from Chapman Ford is \$34,241 and from Koch Ford the cost is \$33,845. Chief Fogel noted there would still be another \$4,000 to \$5,000 in upfitting on the vehicle.

Cindy Miller questioned if the grant that was received was going towards the vehicle that is coming in next month. Alice Rehrig commented the grant was for that car and the tasers.

Alice Rehrig noted we received \$16,000 from the insurance company for the Ford Expedition that was demolished in the accident last year. There has not yet been a determination from the insurance company on the vehicle that was damaged in the accident last week.

Cindy Miller questioned if the Chief's vehicle could be put back into the patrol fleet since it sounds like we are in a bind with vehicles right now. Chief Fogel commented it could be done, but this is the vehicle that was identified as having the cylinder with a miss in it. If you step on the gas too hard, it drops a cylinder. It also has a problem with the power steering. Phil Gogel commented the power

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steering should get fixed. Chief Fogel questioned how much the Board would want to put back into a vehicle with 150,000 miles on it. Phil Gogel commented he doesn't want the Chief driving around in a vehicle that is not safe.

Phil Gogel made a motion to replace vehicle 4702, the Ford Explorer SUV at a price not to exceed \$38,000. That would cover the vehicle cost of \$33,845 and then leave \$4,000 for the upfitting. David Hess seconded the motion. Kristen Soldridge questioned if the Department had to stay with Ford or could they go with another make of vehicle. Chief Fogel commented Dodge Durangos are also available under the Co-stars contract and are similar in price, but the equipment from the damaged car cannot be transferred to the Dodge. If all the equipment has to be replaced, it would add about \$10,000 to the purchase price. Linda Roman questioned what type of maintenance plan there is on the vehicle. For a cylinder to knock, someone is not taking care of the vehicle. Chief Fogel commented with the amount of mileage there is on the vehicles, they will begin having problems. Ms. Roman questioned who is checking the fluids and making sure everything is okay. She has a truck with 192,000 miles on it. Chief Fogel commented the maintenance is done predominantly in house by the Maintenance Crew. They have two mechanics on staff. There is also a big difference between the way a police car is driven and a passenger car is driven. They tend to be driven faster going to calls, catching up with speeding vehicles, and also idling for long periods of time when on calls. Linda Roman questioned if there is a pre-check done on the vehicle before it is driven. Chief Fogel commented the Officer's daily log has that information on it. If the Officer finds a problem, they put in a maintenance request form for the vehicle. Frank Zamadics commented they had been bringing the vehicles in every 3,000 for an oil and filter change. The problem with the Dodge, is that is have a very low oil pressure at an idle. Since the idle time is high, it causes low oil pressure in the top of the engine and the knocking and rattling is because of cam wear. They did some checking and have started adding an additive to the oil and running an oil with a higher zinc content. It is helping, but this is a known issue with the Dodges. Patrick VanderPloeg questioned if it needed to be an SUV. Chief Fogel commented the one vehicle that is coming in is a sedan, but right now they don't have any four wheel drive vehicles besides the truck. They also need the SUV to tow the command center and the trailer. John Knobloch commented he used to order cars for the Secret Service and knows head of Ford Fleet sales of North America; he may be able to help if they are having a problem finding cars. All of their agents had take home cars and they replaced their cars between 80,000 and 85,000 miles because the cars get severe use. One of the reasons they decided to replace the vehicles at 80,000 and 85,000 miles was because they were finding the vehicles

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were starting to develop stress cracks in the frames. By getting rid of the cars while they are still worth something, it lessened the cost of the new cars. All voted aye. Motion carried.

Phil Gogel commented the Chief should have Maintenance Crew take care of the repairs to his car. They should be able to do most of them in house. Chief Fogel noted the mechanic who generally does the work, is the one who is out on sick leave. Frank Zamadics commented they can check the vehicle out.

1. Range Permit for 1098 Delps Road. Chief Fogel commented Sergeant Mirabile, who is one of the range instructors, looked at the site and had some concerns with the distances from homes and Mountain View Drive and also the height and width of the berm as indicated in his memo. The height is his main concern because as you step back from the target, the height needed becomes more variable. It's not that they want to say no to a range, they just want to make sure it is right. The applicant's range is proposed to be 6 feet in height and 30 feet in width. The Township's range is 20 feet high and 90 feet wide. The width is not as much of a concern because this will only be used by one or two people compared to having eight or nine officers at the Township range.

The applicant, Brandon Bigalow was present to discuss his application. He didn't receive any correspondence from Sergeant Mirabile so he was unaware that the berm was inadequate. Even before he invested his time and energy into the berm, he did ask if they would be able to come out and give him some advice as to what he would be looking for because none of the codes on the website dictate anything in regards to the berms. He was told to put the application in and let him know when he was ready to have it looked at.

Chief Fogel commented Sergeant Mirabile and himself are not comfortable doing the range inspections because none of them are experts in building ranges. This is one of the problems they always run into when these applications are received. He certainly would be willing to discuss what Sergeant Mirabile's thoughts are with the applicant.

Barry Haydt commented the Township should have a set of rules to go by for the range that would tell you how the backstop should be built. If there was a set of rules, everyone would know what was expected.

Linda Roman questioned if the range would be located near any residences. If you place a range near where there are homes, you are

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assuming a liability because there is a safety zone around them. The caliber of what you are shooting also makes a difference. A .22 will travel over a mile.

Jerry Pritchard commented his only concern with this is setting a precedence. This arrangement may work for him, but what happens when the next one comes in. He doesn't want to appear as though he is against shooting, because he is not.

Attorney Backenstoe commented it is a delicate balance. The Board did previously discuss more definitive regulations for ranges, whether it be in accordance with NRA regulations or something similar. Pennsylvania is a very strong Second Amendment rights State. Section 6120 says no municipality may regulate the lawful ownership, possession, transfer, or transportation of firearms or ammunition. It does not state anything about discharge, which is why he does believe the Board can regulate it. Lehigh Township does not permit the random discharge of firearms in the Village Residential zoning district unless it is for a matter of safety, but it is allowed everywhere else. Right now, the ordinance says private shooting ranges are authorized by permit after inspection of the proposed range for proper backstop by the Chief of Police or his designated representative. What the Board has traditionally done as long as the proposed range was not in the Village Residential district, was have the Chief go out and check if the backstop was safe and verify that there were no homes in the line of fire, then issue a permit. There is a brand new case, Barris vs. Stroud Township. Mr. Barris had a private shooting range and Stroud Township prohibited the range in two of their largest zoning districts. They also had very specific regulations about distances from the range, height of backstops and similar items. This case went up to the Commonwealth Court of Pennsylvania. The lower courts said the Township's ordinances were proper. The Commonwealth Court said that they think the ordinance on its face violated the constitution because there is not a rational relationship between not allowing firing ranges in such a large area of the Township. In the last paragraph of the ruling, it lays out constraints that the Township can impose. It states that a Township may impose requirements on personal shooting ranges such as minimum size lots, setback requirements, safety requirements like targets, backstops to be built and used in accordance with certain standards, requirements for the positioning of the shooting range from other buildings and obstacles beyond the target. The ordinance may require that Township law enforcement go out and inspect the shooting range. Attorney Backenstoe commented he understands the Chief's concern because there are no real

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criteria now. He can go out there and look to see if he thinks it is safe or not, but if there is a problem and it comes back to the Chief, there is no criteria. If you had criteria that says your backstop has to be a certain distance high and a certain distance wide, and so many feet thick, he believes you could impose that. If the regulations are there, Chief could look at it and say it does meet the regulations and it should be authorized. Right now, you have more of a subjective ordinance. Right now, it doesn't seem like Mr. Bigalow is opposed to making improvements, so it may be beneficial to have Officer Mirabile go out and talk to Mr. Bigalow and discuss this. He may be willing to build the backstop higher and wider.

Barry Haydt commented people are able to hunt all over the Township with high powered rifles as long as they are 150 yards away from a home. People are able to hunt everywhere regardless of what type of rules the Township makes. He believes it should be set up with certain dimensions and how it is made.

Jerry Pritchard questioned if the NRA would have specs that the Township could go by or work off of. Cindy Miller commented the NRA probably has something posted on line. It sounds like the Township needs to come up with criteria and not just say to the Chief we are going to go by NRA standards. That's fine, but as a Board, she believes we need to come up with something more concrete that everyone is comfortable with. We know we want to support this. The Board supported this in the past and not turned people away unless there was a severe safety issue.

Randy Braun commented he is hearing everyone talking about the height of the berm. He recalls reading somewhere that the backstop should be two feet higher than the top of target.

Mr. Bigalow commented he has no objection to waiting for standards or an approval. He is just hoping he is not out the money he spent on installing the backstop he has there. He tried to do the right thing to get ahead of it by asking for help and assistance on what would be appropriate for the backstop, but they were not willing to do that so he did the best he could. He has been wanting to do this since he purchased the property three years ago, but held off until he could get a suppressor because he wants to be respectful to any neighbors who are around him. About 90 percent of his shooting will be suppressed.

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Cindy Miller made a motion to table matter until the Board has the opportunity to review NRA specifications and developed standards for the Township. David Hess seconded the motion. All voted aye. Motion carried.

E Fire Company Report. No one was present on behalf of the Fire Company.

1. Approval of Fire Company Activities. The Township is required to carry workers compensation for the volunteer fire company. Workers Comp insurance will only cover them for fire related activities unless the Supervisors authorize their participation in other activities. The Fire Company provided the Board with a list of possible activities they may be involved with during the year so that they would be covered under workers compensation. The list they provided contains the same activities as prior years.

Phil Gogel made a motion to approve the activities listed for 2022. David Hess seconded the motion. Cindy Miller questioned if we could ask the Fire Company for an updated list because there are a lot of activities listed that they are currently not doing. She doesn't have a problem with covering them for workers comp, but would like a more updated list. A resident questioned how the list of activities affects the premium that the Board is paying. Alice Rehrig commented the list of activities does not affect the premium. The premium is based off of claims paid. There have been very little claims as a result of fund raising type activities. She can only recall one in the last ten years. Barry Haydt questioned the liability coverage. Alice Rehrig commented the Fire Company carries their own liability insurance. Phil Gogel commented he would prefer to see a more comprehensive list. He would rather have it more encompassing in case they want to do one of the events that are listed. Sandy Hopkins commented she would hate to deter them from attempting some of the items on the list. She does agree with Cindy Miller in that some of the items listed, they haven't done for years. Alice Rehrig commented she could contact the Fire Company and ask them to asterisk the current activities so that the Board is aware of what they currently are doing. All voted aye. Motion carried.

VI. OLD BUSINESS

- A. Cherryville Intersection. Alice Rehrig received information from Jim Milot that Melissa Maupin finally responded to an email from the end of November. She is looking for the contractor to provide specifications and a plan regarding the accessibility requirements of the contract. Cindy Miller noted there are areas in

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the engineering where we are over budget. The intersection striping plans are over by \$3,000, the inspections are under by about \$600 and the construction management is under by about \$7,000. With these plan requirements, what will the Township be responsible for? Mike Muffley commented, as far as he is aware, this is corrective action that the contractor must take to meet the requirements of the plan and are punch list items Cindy Miller questioned if after this is provided, Melissa Maupin will allow this project to get completed? Mike Muffley commented that was his understanding. Cindy Miller noted we are now in January. This project was supposed to be done in June. Jerry Pritchard questioned if contacting a Senator would be helpful to get this project completed. Cindy Miller commented she already talked to Senator Scavello and he said he would give PennDOT a call. That is all he can do.

Even though the Maintenance Building wasn't on the agenda, Jerry Pritchard wanted to discuss it quickly under Old Business. The Township has invested a lot of hours and energy into a new Maintenance Building. We have a vision, but not the funds to complete it. He doesn't want to see the project die. He would like to get a committee together again and start working to see what we can do to get it done. We may be able to use some of the COVID relief money towards the building. If we can legally put this money towards the building and some security upgrades, he thinks it would be a great benefit to the Township. Cindy Miller commented we won't be able to put all of the money towards the building because it has to be a COVID related project. Jerry Pritchard commented we should start working to see what parts of the Maintenance Building project we can use it for. He would like to try to move this process forward.

VII NEW BUSINESS

A Resolutions for Review/Adoption

1. Resolution 2022-1, Reenacting Various Taxes. This resolution is done annually and sent into DCED. It reenacts the per capita taxes, real estate transfer tax and earned income tax. Cindy Miller made a motion to adopt Resolution 2022-1. Phil Gogel seconded the motion. All voted aye. Motion carried.

2. Resolution 2022-2, Adding 512 and 530 Birch Road to Ag Security. This resolution will enter the Jason and Kelly Hanke property consisting of 23 acres along Birch Road into the Ag Security Areas of the Township. This is the first step they need to take if they are planning on adding their property into the Farmland Preservation program. Cindy Miller made a motion to adopt Resolution 2022-2. David Hess seconded the program. All voted aye. Motion carried.

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3. Resolution 2022-3, Adding 470 Birch Road to Ag Security. This resolution will add the 42 acres that Jody and Meagan Snyder own on Birch Road into the Ag Security Area of the Township. Cindy Miller made a motion to adopt Resolution 2022-3. David Hess seconded the motion. All voted aye. Motion carried.
 4. Resolution 2022-4, Establishing Sewage Enforcement Fees. This resolution incorporates the fees that were provided by Keystone Consulting for Sewage Enforcement services and adds an administrative fee of approximately five percent. By doing this, we have been able to keep the Sewage Enforcement services at a zero cost to the Township. Cindy Miller made a motion to adopt Resolution 2022-4. David Hess seconded the motion. All voted aye. Motion carried.
 5. Resolution 2022-5, Establishing Subdivision Fees and Various Hearing Fees. The changes that were made to this resolution were on Page 4 under Zoning Hearing Fees. After reviewing the 2021 expenses, Alice Rehrig determined that overall, the allowable expenses were being covered, but when you looked at the individual hearings, the hearings where people were looking to have an in home business tended to cost more. As a result of this, she developed a new fee category of Residential Business Applications and set a fee of \$1,000 to cover the expenses associated with these hearings. She also added additional language which would require additional fees to be paid in the event the hearing needs to be continued, whether it be because the Applicant requests it or the Zoning Hearing Board is requiring additional information. Cindy Miller made a motion to adopt Resolution 2022-5. David Hess seconded the motion. All voted aye. Motion carried.
- B, Discussion of Noise Ordinances. During an informal discussion with the residents of Longacre Drive, there was a concern raised about enforcement of the ordinances being difficult because noise was addressed differently in two different sections of the Township ordinances. One section listed times restricting noise, and the other section did not address any times. As a result of these discussions, Alice Rehrig provided the Board with proposed changes to ordinances. She was suggesting removing the noise restrictions from Chapter 103, Nuisances and revising the language in Chapter 111, Peace and Good Order. In addition to changing the language the Board should also confirm they are in agreement with the noise restriction between 11:00 p.m. and 7:00 a.m. and the language of how far the noise can be heard, the 150' from the source or from the property line.

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Cindy Miller commented the existing language in our ordinance is outdated in that it is referring to boom boxes. The boom boxes should be updated to sound devices and apparatus. Alice Rehrig commented that the proposed changes to Chapter 111 will address this.

Jerry Pritchard commented he believes the hearing of the noise should be based off the source, not the property line. Chief Fogel commented it could be both because you would use the source if someone is in a vehicle, at a park, or in a yard. You would go from the property line if someone is in their home. If you go by the property line and the home is located a far distance from the property line, it gives them the entire distance from the house to the property line and then the property line to the next property or home. He believes from the source would be best.

A resident commented he has been having problems with a neighbor for the past five to eight years. Last evening, around 6:30 p.m. when his wife came home from work, they could hear the music in their house and with it being winter, both houses had their windows closed. He has tried talking to his neighbor and his neighbor told him it is not his problem. In the summer time, they are in their inflatable pool which is about 20 feet from the property line and he is in his house which is 125 feet from the property line, and his family can't enjoy dinner on their deck or have their windows open on a nice summer day because they can hear the music. He can actually go to his other neighbor's property and still hear the music. Sometimes it is only an hour and other times it is from 11:00 a.m. to 7:00 p.m. He would agree that changes need to be made to address the issue at times other than the 11:00 p.m. to 7:00 a.m. Today, people are working various shifts, nights, middles, and swing shifts. He wouldn't want to try to prevent people from doing things. If it is only an hour, it's not a big deal, but when it becomes a longer period of time, it should be able to be addressed.

Phil Gogel commented there maybe should be different standards set for Village Residential areas.

David Hess commented he believes the times should be adjusted, maybe 10:00 p.m. to 8:00 a.m. or 10 p.m. to 7:00 a.m. He believes that 11:00 p.m. is a little too late.

Kaz Kotlow commented it seems like there are two categories. One, where it needs to be absolutely quiet and that would be the 10:00 p.m. or 11:00 p.m to 7:00 a.m. and the other being the nuisance of it being just to loud at any time of the day. The language should be revised so that it doesn't need to be both of these so that if someone is just being a nuisance, it can be addressed.

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Jerry Pritchard questioned how it would be addressed with a business where they are firing up their equipment. It was noted that there are exceptions for that within the ordinance.

A resident questioned how it would be determined if a noise is too loud; it seems very subjective. How would the police enforce it? Jerry Pritchard commented if it is to the point where the police need to be called, then it probably is too loud. Chief Fogel commented he does agree that it can be subjective because each Officer will hear things differently to some extent. However, he would suggest that if the neighbors are calling because it is annoying them and the Officer can verify that what they are saying is accurate in that the noise can be heard off their premises for more than 150 feet from the source of the noise. If they are able to qualify that, they can address it. It doesn't necessarily have to be their personal opinion.

Phil Gogel made a motion to authorize Alice Rehrig and Attorney Backenstoe to draft a revised noise ordinance for the Township. David Hess commented he believes that 11:00 p.m. is too late. Kristen Soldridge commented the 11:00 p.m. should at least be left in there for Friday and Saturday nights. Once COVID gets under control and people start going back to their normal lives, they are going to want to have parties and picnics. You don't want to have people coming in and asking for permission to have noise beyond 10:00 p.m. because they are having a party that may run late. If they keep it under control and it is not bothering the neighborhood, why do you want to penalize them? You are always going to have neighbors who complain about people because they just want to complain. Then you are going to overburden the Police Department with people calling in because they see that the noise ordinance has changed and then the Police won't be able to do their jobs. If the noise ordinance is fine the way it is and it hasn't been an issue except for the specific scenarios that have been mentioned, why go and change something. Attorney Backenstoe commented the way the ordinance is being proposed, it gives the Police the ability to go out and ask someone to turn down the noise and if they don't, the police can cite them. It is subjective, but you do need some way to control things for the unfortunate circumstances. The Police can also use the person who called as a witness and have them testify if there is a hearing. That would meet the burden of disturbing the peace and endangering someone's comfort and health. Cindy Miller noted the Chief was also suggesting that property line be removed and just leave it at 150 feet from the source. A resident commented he would also agree with the 10:00 p.m., but there does need to be something to deal with the nuisances that people create. Most people will not have an issue if it is something that happens once in a while, but when it becomes four and five days out of the week constantly, it gives the Police the opportunity to try to address it. Jerry Pritchard commented what will help people

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is the section where the noise is disturbing and annoying. If you change the times, something will still be disturbing and annoying. Paul Nikisher commented it is a case of common sense and common courtesy. If someone is out of line and playing their music too loud, we have the cops, call them and they can tell them to calm it down. If they have to come back again, then cite them. To him, it is pretty cut and dry. He does agree with Kristen Soldridge when it comes to Friday and Saturday and there are events going on, it should be until at least 11:00 p.m. The problem lies with the people who don't respect the people next to them. Kristen Soldridge commented you also need to remember that people work all different hours and may not come home until 11:00 p.m. or 12:00 p.m. and that may be the only time they can do what they want to. If they are in a band, they may practice their trumpet or drums because that is the only time they can. Her point is the time has been the way the time has been. Leave it the way it is. If it is ridiculous, the police will be called in. If you change the time, it will impact everyone. Right now, someone may want the time changed, but if something changes in their life style, they may want different hours and be against it. If the Board really feels the need to limit things, do it during the standard work week. Adding additional restrictions seems to be overreaching. Jerry Pritchard commented it seems like this was developed because the Chief needed better guidelines to work within. If the Board feels comfortable with what Alice Rehrig drafted, then we can move forward with that. Cindy Miller commented she agrees with what was drafted with the removal of the property line from the ordinance. Cindy Miller seconded the motion to authorize Alice Rehrig and the Solicitor to draft an ordinance for additional review by the Board. All voted aye. Motion carried.

- C Possible/Questionable Litigation. Jerry Pritchard commented he asked this to be placed on the agenda. This is a new Board and he would like this Board to work together, not against each other. Three meetings ago, it was brought to their attention that there could be possible litigation brought against the Board and individuals based on Civil Rights being violated. This was brought up by Phil Gogel. We are starting a brand new Board in a brand new year and he would like to know where this litigation stands. Phil Gogel commented he was advised not to comment on this so he has no comment, but will need a copy of the meeting recording.

Paul Nikisher questioned who pays for the litigation if it goes forward? If you are on the Board representing the residents you need to be thick skinned because you need to make tough decisions. He wants to know if someone brings litigation against the Board or individuals, do the taxpayers have to pay for that? Attorney Backenstoe commented yes, they would need to pay to defend the suit. They would not pay for the plaintiffs fees. In Pennsylvania, you cannot reclaim

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lawyers' fees in a lawsuit unless certain things happen. If it is in Federal Court, if the defendant prevails, then the defendant can get counsel fees from the plaintiff and the plaintiff can get counsel fees from the defendant if the plaintiff prevails. Paul Nikisher commented his taxes are high enough. He doesn't want more tax money taken from him to defend this type of litigation, unless it is something so drastic or reckless. He would want to know a little more about this before he is on the hook to help pay for it.

Jerry Pritchard questioned if everyone needs to get an attorney if they are all looking to sue each other. Attorney Backenstoe commented at this point, it is all hypothetical. He doesn't know what the nature of the litigation would be. He can't really comment on it because it would just be pure speculation. If someone filed a 1983 Civil Rights Lawsuit, there are times when the insurance company may come in and defend it for you, but there would be a deductible so the Township would have to pay something. If there is some type of mandamus action, that would be entirely different. He can't answer the question because he has no idea what the issue is on this.

Paul Nikisher questioned why Phil Gogel couldn't comment on this. Phil Gogel commented he cannot comment on it because he could taint his case. Paul Nikisher questioned if Phil Gogel was going to pursue this. Adam Raker commented it seems pretty obvious if he is concerned with tainting his case.

Koz Katlow questioned if this issue will be held over everyone's head? That seems to be the case.

Jerry Pritchard commented the Board is elected to do the business of the Township, not to sue each other. It is a tough road to go down to do the business knowing what you're up against, but they need to do the business anyway.

A resident commented as a tax payer, it doesn't put a lot of faith in the Board if you are not working as a team. The Board was elected to work for the taxpayers.

Cindy Miller commented the issue is the suit could be against the Board and/or individuals. That's not necessarily just individuals on the Board. It could be anyone who was sitting in the audience. That is also a concern.

Jerry Pritchard commented it sets a bad precedence. Law works off law. Once you finish something it becomes law. So if we go down that road, it will be the law of the Township. Law works off law. He hates to see the tax payer money goes towards something like that. He would rather build a maintenance building or fix the roads.

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Paul Nikisher questioned what was going on. Will the litigation be pursued? Are we going to be in limbo? What are we doing? Let's work together.

Kristen Soldridge commented she specifically remembers that when Phil Gogel resigned his position as Supervisor, it was to be appointed to Mike McGonigle's remaining term. If Phil Gogel was that concerned with how the Board was operating, why would you put your name in for the appointment. If someone asks you a question, but doesn't ask it with same verbiage as they did someone else, but it is still the same question, she doesn't understand how you could be misconstrued. She was here for some of the questions. She knows there were differences in the verbiage, but the questions were still the same. If Phil Gogel was that mad and didn't want to work with the Board, why did he want to be reappointed to fill Mike McGonigle's remaining term? Why would you go for reappointment if you had concerns about the Board, knowing the Board was going to change in January? Phil Gogel commented the question doesn't pertain to what is on the agenda and doesn't know what is trying to be said.

Adam Raker commented Phil Gogel made it a point to make it clear to everyone what all the things were that he did for the Township and was going to do for the Township and how important it was for him to get back on the Board. If that is the case, why is Phil Gogel turning around and trying to damage the Township financially and it can only benefit him financially? Adam Raker commented a couple of months ago, Phil Gogel explained everything he did and everything he can do for the Township because he cared so much about the Township. What changed in the past couple of months that now instead of doing all these things for the Township you want to sue us and take our money. It only hurts us, and helps him. Phil Gogel commented he did go through an interview process. Adam Raker commented everyone else who applied went through the process also.

Barry Haydt commented everyone has the right to sue if they think they were damaged, but it can't be litigated here. If he thinks he was damaged, he has the right to sue. If he prevails, then he was right. If he loses, then he was wrong. That's the way our courts work. Jerry Pritchard commented the reason he put this on the agenda is that he believes the public needs to understand the financial burden it puts them under. Barry Haydt commented if the Township feels as though they will win, then it doesn't matter. Cindy Miller commented either way, the Township loses money. How would the money spent defending the suit be recouped? Barry Haydt commented that is the nature of the beast. Cindy Miller questioned if we are now going to have Board members suing Board members or Board members suing individuals in the community? Barry Haydt questioned if we are going to have rules that if someone does something wrong, they can't be sued? Then we are not in America. Cindy Miller commented it is a slippery

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slope. Barry Haydt commented that is why people need to think before they speak. We are in America and it is a democracy and that is how it works. If we change it that someone can't sue another person, that is also a slippery slope. The courts will work it out and whomever loses, loses. Adam Raker commented the taxpayers will still have to pay for the whole thing. There should be some clear parameters set.

Katherine Mack questioned if the Board will share the documents once they are served. Attorney Backenstoe commented it will become a public record.

Jerry Pritchard commented all he wanted in bringing this up was to note that we pay for it. If we win, we still pay because there is no guarantee that you will get your money back. If it costs us \$2,000, \$10,000, or \$50,000 and you feel it is worth it, that's America, just be prepared to pay for it. Katherine Mack commented once the parameters of the suit are learned and it can be shared, they can have input into this.

- D Manager's Report. Alice Rehrig provided the Board with a list of recommendations from the Auditor for their review. The recommendations are procedural in nature and will not affect any of the prior or future audits. It is up to the Board how or if they want to implement any or all of the recommendations. Cindy Miller commented she thought they were good points and believes if an Auditor is making recommendations, it is something that should be taken seriously to look at adopting. To her a lot of it makes sense. We don't need to hire them to do this. Alice Rehrig commented it is mostly developing written policies as to how to handle items. If the Board would like, she can start working on them and as they are completed, bring them back to the Board. The Board was in agreement with this.

The Planning Commission provided the Board with a recommendation regarding moving forward with the adoption of the Comp Plan. The process for adopting the Comp Plan is to schedule a public hearing. Because of advertising requirements, it will need to be scheduled about a month in advance. The consultant that was working with the Planning Commission on the plan is not available for the second meeting of the month because of other meetings. Since the first meeting of the month tends to run longer, the Board may want to consider starting the hearing for the Comp Plan at 6:30 p.m. and have that as the first item on the agenda. The Board agreed with having the meeting at 6:30 p.m. on March 8.

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Over the next several weeks, thought should be given to what projects the Township would want to fund with the American Relief Funds. The final rule on how to use the money was just released so hopefully over the next few weeks more guidance will be available for the use of the funds.

The extension for the NPDES permit for the Maintenance Building was approved. The new expiration date for the permit is December 24, 2024.

Keith Hantz questioned how the public will be made aware of what is being proposed in the Comp Plan. Alice Rehrig commented she will have it on the website. Keith Hantz questioned if there will be copies available for the public if they want them. He only thinks it's fair because the property owners who are being affected by the zoning changes are not being notified. To hold a hearing that night and make decisions that will affect township residents down the road is not fair. Somehow, the public needs to know in advance about what the Board will be voting on at the hearing. Cindy Miller commented it will be advertised and posted on the website. We can't just be handing out draft copies of a plan. Keith Hantz commented how is that right when the plan will affect their land. Cindy Miller commented she thought the people who are affected get notified. Alice Rehrig commented they would get notified when the zoning change goes into effect, but not for the Comp Plan because the Comp Plan by itself doesn't change the zoning. Cindy Miller commented there can be a copy available for them to review in the office, but she doesn't believe there should be copies made for general distribution. Keith Hantz questioned why you wouldn't want them to have copies, is there something to hide? Cindy Miller commented maybe if they want to pay for the copies of the plan. It is a relatively thick document with maps. Keith Hantz commented then determine a price. It is not right to only make it available for people to look at on a computer when it is going to affect their land. Cindy Miller commented that she doesn't have a problem with people knowing what is in the plan; they are not trying to hide anything, but it does take time and material in printing the book and maps. There have been special meetings held for over a year and no one has shown up for the meetings; not even the Board has shown up for the meetings. Jerry Pritchard commented it makes sense have the copy available if someone wants to pay for it.

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

VIII PUBLIC COMMENT. Paul Nikisher questioned what the status was of the Longacre Airbnb. Attorney Backenstoe commented they signed the stipulation and settlement agreement and withdrew their appeal. The rentals on that property should end on the 16th. As far as he knows, they are not advertising for any rentals.

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Wendy Kleintop questioned who the Chairman of the Board was. Attorney Backenstoe commented Mike Jones was appointed Chairman at the reorganization meeting and since he not here, Jerry Pritchard is running the meeting because he was appointed as Vice Chairman.

Katherine Mack questioned if the Zoning Hearing Board Solicitor has been confirmed for their meeting on Thursday. Alice Rehrig commented she sent him a letter in an email outlining the salary and he replied he was looking forward to working with the Township. Katherine Mack suggested that if the need for another Solicitor occurred, there should be a member or two of the Board of Supervisors who sit in the interview. The question the Supervisors asked of the Zoning Hearing Board was what is the salary. The Zoning Hearing Board is not allowed to discuss salary with him. If they recommend a Solicitor, they cannot control what their rate will be. If the Supervisors were present, they could ask the question and tell them this is all we can afford to pay. Cindy Miller questioned why the Zoning Hearing Board couldn't ask about salary. Katherine Mack commented they cannot set salaries. Attorney Backenstoe commented the Zoning Hearing Board can discuss it with the applicant, but the Supervisors ultimately set the salary. Katherine Mack commented the Zoning Hearing Board is not aware of what rates are currently being paid to Solicitors. Cindy Miller commented she didn't think Supervisors could attend the interviews because the Zoning Hearing Board is responsible for picking their Solicitor.

A resident questioned if it would be possible to make the yard waste site more accessible to residents. He understands that when someone does something stupid, it creates problems for everyone else, but believes the site should be open more than just 2:00 p.m. to 6:00 p.m. on Saturdays. Phil Gogel commented it could be reviewed again. The reason the hours were changed was to break the cycle of contractors coming in a dumping their debris. Jerry Pritchard commented the Board is also working on some corrections. Paul Nikisher commented he agrees that the yard waste site should be more accessible, at least on a Saturday. Resident should also start policing themselves.

Dennis Herschman questioned what the COVID relief money could be used for. Cindy Miller commented the initial guidelines were that it could be used for stormwater management, technology, COVID related items, and there was a formula to justify income loss, and everything must be documented because it must be reported. Before making a determination of what will be done with it, she wants to see the guidelines. If it is used for an improper purchase, you have to return the money. A resident questioned what the amount was that the Township was going to received and if it was factored into the budget. Cindy Miller commented it will be just over \$1 million, and it was not factored into the budget. John Knobloch questioned when the funding expires. Cindy Miller commented she believes it is the end of 2023. They said it was 3 years, but we are already a year and a half into this and are just getting the guidelines.

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- IX. EXECUTIVE SESSION—MOU to Collective Bargaining Agreement. The Board went into an Executive Session to discuss a memorandum of understanding pertaining to the Teamsters Collective Bargaining Agreement. No action was required at this time.
- X. ADJOURN. David Hess made a motion to adjourn. Cindy Miller seconded the motion. Motion carried.